Bold and single underline = new language since preliminary adoption
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TITLE 326 AIR POLLUTION CONTROL BOARD

RULE AS PRELIMINARILY ADOPTED AND PROPOSED FOR FINAL ADOPTION WITH SUGGESTED CHANGES

LSA Document #00-137

DIGEST

Adds 326 IAC 10-3 for the control of nitrogen oxide emissions from specific source categories. Adds 326 IAC 10-4 for the establishment of a nitrogen oxides budget trading program. Amends 326 IAC 2-3-1, 326 IAC 2-3-2 and 326 IAC 2-3-3 for incorporating nitrogen oxide emission threshold revisions and pollution control project exemptions. Effective 30 days after filing with the secretary of state.

HISTORY

First Notice of Comment Period: July 1, 2000, Indiana Register (23 IR 2606).

Second Notice of Comment Period and Notice of First Hearing: December 1, 2000, Indiana Register (24 IR 766).

Date of First Hearing: February 7, 2001.

Third Notice of Comment Period and Notice of Second Hearing: April 1, 2001, Indiana Register (24 IR 2125)

326 IAC 2-3-1
326 IAC 2-3-2
326 IAC 2-3-3
326 IAC 10-3
326 IAC 10-4

SECTION 1. 326 IAC 2-3-1 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-3-1 Definitions
Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with the following:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two (2) year period which precedes the particular date and which is representative of normal source operation. The commissioner shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The commissioner may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emissions unit**, other than an electric utility steam generating unit specified in subdivision (4),** which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit, other than a new unit or the replacement of an existing unit, actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the department on an annual basis for a period of five (5) years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed ten (10) years, may be required by the department if the department determines such a period to be more representative of normal source post-change operations.

(5) When applying for a pollution control project exclusion under subsection (s)(2)(H) for a pollution control project at an existing emissions unit, actual emissions of the unit following the installation of the pollution control project shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the department on an annual basis for a period of five (5) years from the date the emissions unit resumes regular operation, information demonstrating that the pollution control project and the physical or operational changes to the unit necessary to accommodate the project did not result in an emissions increase. A longer period, not to exceed ten (10) years, may be required by the department if the department determines such a period to be more representative of normal source post-change operations. This paragraph cannot be used to determine if the pollution control project results in a significant net emissions increase. This paragraph can only be used for an application submitted under the pollution control project exclusion to determine if the project results in a significant net increase in representative actual annual emissions.

(c) "Allowable emissions" means the emissions rate of a source calculated using the maximum rated capacity of the source (unless a source is subject to state or federally enforceable permit limits which restrict the operating rate or hours of operation, or both) and the most stringent of the following:

(1) The applicable standards as set forth in 40 CFR 60**, New Source Performance Standards (NSPS)*** and 40 CFR 61*****, ~~New Source Performance Standards (NSPS)~~ ~~and~~ National Emission Standards for Hazardous Air Pollutants (NESHAPS)*~~, respectively*~~.

(2) The emissions limitation imposed by any rule in this title, including those with a future compliance date.

(3) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

(d) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, the following:

(1) Installation of building supports and foundations.

(2) Laying underground pipework.

(3) Construction of permanent storage structures.

With respect to a change in method of operations, "begin actual construction" refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(e) "Best available control technology" or "BACT" means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major stationary source or major modification which the commissioner, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR 60***** and 40 CFR 61*. If the commissioner determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice, or operation and shall provide for compliance by means which achieve equivalent results.

(f) "Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same

major group, that is, those which have the same first two (2) digit code, as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement (U.S. Government Printing Office).

(g) "Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility that will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

(h) "Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology", up to a total amount of two billion five hundred million dollars ($2,500,000,000) for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the U.S. EPA. The federal contribution for a qualifying project shall be at least twenty percent (20%) of the total cost of the demonstration project.

~~(g)~~ **(i)** "Commence", as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(1) begun, or caused to begin, a continuous program of actual on-site construction of the source to be completed within a reasonable time; or

(2) entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

~~(h)~~ **(j)** "Complete", in reference to an application for a permit, means that the application contains all of the information necessary for processing the application. Designating an application complete for purposes of permit processing does not preclude the commissioner from requesting or accepting additional information.

~~(i)~~ **(k)** "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

~~(j)~~ **(l)** "de minimis", in reference to an emissions increase of volatile organic compounds ~~or oxides of nitrogen~~ from a modification in a serious or severe ozone nonattainment area, means an increase that does not exceed twenty-five (25) tons per year when the net emissions increases from the proposed modification are aggregated on a pollutant specific basis with all other net emissions increases from the

source over a five (5) consecutive calendar year period prior to, and including, the year of the modification.

(m) "Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third (?) of its potential electric output capacity and more than twenty-five megawatts (25 MW) electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

~~(k)~~ **(n)** "Emissions unit" means any part of a stationary source which emits or would have the potential to emit any pollutant regulated under the provisions of the Clean Air Act.

~~(l)~~ **(o)** "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

~~(m)~~ **(p)** "Incidental emissions reductions" means the reductions in emissions of a pollutant achieved as an indirect result of complying with another rule for another pollutant.

~~(n)~~ **(q)** "Internal offset" means to use net emissions decreases from within the source to compensate for an increase in emissions.

~~(o)~~ **(r)** "Lowest achievable emission rate" or "LAER" means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable.

(2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions unit within the stationary source. In no event shall the application of the lowest achievable emission rate permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.

~~(p)~~ **(s)** "Major modification" means any physical change or change in the method of operation of a major stationary source that would result in a significant net emissions increase or in an area which is classified as either a serious or severe ozone nonattainment area, an increase in VOC ~~or NO_x~~* emissions

that is not de minimis of any pollutant which is being regulated under the Clean Air Act. The following provisions apply:

(1) Any net emissions increase that is significant for volatile organic compounds ~~or significant for oxides of nitrogen~~ shall be considered significant for ozone.

(2) A physical change or change in the method of operation shall not include the following:

(A) Routine maintenance, repair, and replacement.

(B) Use of an alternative fuel or raw material by reason of an order under Sections 2(a) and 2(b) of the Energy Supply and Environmental Coordination Act of 1974 or by reason of a natural gas curtailment plan under the Federal Power Act.

(C) Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act.

(D) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

(E) Use of an alternative fuel or raw material by a source which:

(i) the source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any enforceable permit condition which was established after December 21, 1976, under 40 CFR 52.21* or regulations approved under 40 CFR 51.160 through 40 CFR 51.165* or 40 CFR 51.166*; or

(ii) the source is approved to use under any permit issued under this rule.

(F) An increase in the hours of operation or in the production rate, unless such change would be prohibited under any enforceable permit condition which was established after December 21, 1976, under 40 CFR 52.21* or regulations approved under 40 CFR 51.160 through 40 CFR 51.165* or 40 CFR 51.166*.

(G) Any change in ownership at a stationary source.

(H) The addition, replacement, or use of a pollution control project at an existing emissions unit if the following conditions are met:

~~**electric utility steam generating unit unless the department determines that:**~~

(i) Upon review, the department does not determine that:

~~(i)~~(AA) such addition, replacement, or use renders the unit less environmentally beneficial; or

~~(ii)~~ (BB) the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the CAA, if any; and

~~(ii)~~(CC) the pollution control project would result in a significant net emissions increase that will cause or contribute to a violation of any national ambient air quality standard (NAAQS), PSD increment or visibility limitation.

During review, the department may request that a source submit an analysis of the air

quality impact of the net emissions increase of the pollution control project.

(ii) If a pollution control project would result in a significant net emissions increase in representative actual annual emissions of a pollutant for which an area is classified as nonattainment, or an emissions increase in VOC that is not de minimis in an area which is classified as either serious or severe ozone nonattainment, then those emissions shall be offset on a one-to-one (1:1) ratio, except that no offsets are required for the following:

(AA) A pollution control project for an electric utility steam generating unit; or

(BB) A pollution control project that results in a significant net increase in representative actual annual emissions of any criteria pollutant for which the area is classified as nonattainment and current ambient monitoring data demonstrates that the air quality standard for that pollutant in the nonattainment area is not currently being violated; or

(CC) A pollution control project for a NO_x budget unit, as defined in 326 IAC 10-4-2, that is being installed to control NO_x emissions for the purpose of complying with 326 IAC 10-4-2.

(iii) A pollution control project as described under this clause shall be considered a significant source modification under 326 IAC 2-7-10.5(f)(8).

(I) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(i) the state implementation plan; and

(ii) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

~~(q)~~ **(t)** "Major stationary source" means the following:

(1) Any stationary source of air pollutants**, except for those subject to subdivision (2),** which emits, or has the potential to emit, one hundred (100) tons per year or more of any air pollutant subject to regulation under the Clean Air Act.

(2) For ozone nonattainment areas, "major stationary source" includes any stationary source or group of sources located within a contiguous area and under common control that emits or has the potential to emit volatile organic compounds ~~or oxides of nitrogen~~ that would equal or exceed any of the following rates:

Ozone Classification	Rate
Marginal	100 tons per year
Moderate	100 tons per year
Serious	50 tons per year

Severe 25 tons per year

(3) Any of the following stationary sources with potential emissions of five (5) tons per year or more of lead or lead compounds measured as elemental lead:

(A) Primary lead smelter.

(B) Secondary lead smelters.

(C) Primary copper smelters.

(D) Lead gasoline additive plants.

(E) Lead-acid storage battery manufacturing plants that produce two thousand (2,000) or more batteries per day.

(4) Any other stationary source with potential emissions of twenty-five (25) or more tons per year of lead or lead compounds measured as elemental lead.

(5) Any physical change occurring at a stationary source not qualifying under subdivision (1), if the change would by itself qualify as a major stationary source under subdivision (1).

~~(r)~~ **(u)** "Necessary preconstruction approvals or permits" means those permits or approvals required under 326 IAC 2-2, 326 IAC 2-5.1, and 326 IAC 2-7.

~~(s)~~ **(v)** "Net emissions decrease" means the amount by which the sum of the creditable emissions increases and decreases from any source modification project is less than zero (0).

~~(t)~~ **(w)** "Net emissions increase", with reference to a significant net emissions increase, means the amount by which the sum of the emission increases and decreases at a source exceeds zero (0). For the purpose of determining de minimis in an area classified as serious or severe for ozone, the amount by which the sum of the emission increases and decreases from any source modification project exceeds zero (0). The following emissions increases and decreases are to be considered when determining net emissions increase:

(1) Any increase in actual emissions from a particular physical change or change in the method of operation.

(2) Any of the following increases and decreases in actual emissions that are contemporaneous with the particular change and are otherwise creditable:

(A) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs after January 16, 1979, and between the following:

(i) The date five (5) years before construction of the particular change commences.

(ii) The date that the increase from the particular change occurs.

(B) An increase or decrease in actual emissions is creditable only if the commissioner has not relied on the increase or decrease in issuing a permit for the source under this rule, which permit is in effect when the increase in actual emissions from the particular change occurs.

(C) An increase in actual emissions is creditable only to the extent that a new level of actual

emissions exceeds the old level.

(D) A decrease in actual emissions is creditable only to the extent that:

(i) the old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) it is federally enforceable at and after the time that actual construction on the particular change begins;

(iii) the commissioner has not relied on it in issuing any permit under regulations approved under 40 CFR 51.160 through 40 CFR 51.165* or the state has not relied on it in demonstrating attainment or reasonable further progress; and

(iv) it has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(E) An increase that results from the physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed one hundred eighty (180) days.

~~(u)~~ **(x)** "New", in reference to a major stationary source, a modified major stationary source, or a major modification, means one which commences construction after the effective date of this rule.

(y) "Pollution control project" ~~**means:**~~

~~**(1) Any**~~ **means any activity or project undertaken at an existing** ~~**electric utility steam generating**~~ **emissions unit for purposes of reducing emissions from such unit. Such activities or projects do not include the replacement of an existing emissions unit with a newer or different unit, or the reconstruction of an existing emissions unit. Such activities or projects are limited to any of the following:**

~~(A)~~(1) The installation of conventional ~~**or innovative pollution control technology, including but not limited to**~~ **and advanced flue gas desulfurization,** ~~**and nitrogen oxides controls and electrostatic precipitators**~~ **and sorbent injection for sulfur dioxide.**

(2) Electrostatic precipitators, baghouses, high efficiency multiclones, and scrubbers for particulate or other pollutants.

(3) Flue gas recirculation, low-NO_x burners, selective non-catalytic reduction and selective catalytic reduction for nitrogen oxides.

(4) Regenerative thermal oxidizers, catalytic oxidizers, condensers, thermal incinerators, flares, and carbon adsorbers for volatile organic compounds and hazardous air pollutants.

~~(B)~~(5) An activity or project to accommodate switching to a fuel which is less polluting than the fuel in use prior to the activity or project, including, but not limited to natural gas or coal re-burning, or the co-firing of natural gas and other fuels for the purpose of

controlling ~~emissions.~~
emissions and including any activity that is necessary to accommodate switching to an inherently less polluting fuel.
~~(C)~~(6) A permanent clean coal technology demonstration project conducted under ~~Title~~title II, section 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of ~~Title~~title 42 of the United States Code), or subsequent appropriations, up to a total amount of two billion five hundred million dollars ($2,500,000,000) for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the U.S. EPA.
~~(D)~~(7) A permanent clean coal technology demonstration project that constitutes a repowering project.
(8) Pollution prevention projects which the department has determined through a significant source modification to be environmentally beneficial. Pollution prevention projects that may result in an unacceptable increased risk from the release of hazardous air pollutants or that may result in an increase in utilization are not environmentally beneficial.
(9) Installation of a technology, for the purposes of this subsection, which is not listed in paragraphs (1) through (8) of this subsection, but is determined to be environmentally beneficial by the department through a significant source modification.

~~(v)~~ **(z)** "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

~~(w)~~ **(aa)** "Reasonable further progress" or "RFP" means the annual incremental reductions in emissions of a pollutant which are sufficient in the judgment of the board to provide reasonable progress towards attainment of the applicable ambient air quality standards established by 326 IAC 1-3 by the dates set forth in the Clean Air Act.

(bb) "Repowering" means replacement of an existing coal-fired boiler with one (1) of the following clean coal technologies:
(1) Atmospheric or pressurized fluidized bed combustion.
(2) Integrated gasification combined cycle.
(3) Magnetohydrodynamics.
(4) Direct and indirect coal-fired turbines.

(5) Integrated gasification fuel cells.

(6) As determined by the U.S. EPA, in consultation with the Secretary of Energy, a derivative of one (1) or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

Repowering shall also include any oil or gas-fired unit, or both, which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy. The U.S. EPA shall give expedited consideration to permit applications for any source that satisfies the requirements of this subsection and is granted an extension under Section 409 of the Clean Air Act.

(cc) "Representative actual annual emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two (2) year period after a physical change or change in the method of operation of a unit, (or a different consecutive two (2) year period within ten (10) years after that change, where the department determines that such period is more representative of normal source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the department shall:

(1) Consider all relevant information, including but not limited to, the following:

(A) Historical operational data.

(B) The company's own representations.

(C) Filings with Indiana or federal regulatory authorities.

(D) Compliance plans under Title IV of the CAA.

(2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

~~(x)~~ **(dd)** "Secondary emission" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this rule, secondary emissions must be specific, well-defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions may include, but are not limited to:

(1) emissions from the ships or trains coming to or from the new or modified stationary source; and

(2) emissions from an off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification.

~~(y)~~ **(ee)** "Significant", in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, means a rate of emissions that would equal or exceed any of the following rates:

Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy
PM_{10}	15 tpy
Ozone (marginal and moderate areas)	40 tpy of volatile organic compound (VOC) ~~or oxides of nitrogen (NO_x)~~
Lead	0.6 tpy

~~(z)~~ **(ff)** "Source modification project" means all those physical changes or changes in the methods of operation at a source which are necessary to achieve a specific operational change.

~~(aa)~~ **(gg)** "Stationary source" means any building, structure, facility, or installation, including a stationary internal combustion engine, which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(hh) "Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of five (5) years or less, and that complies with the state implementation plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

*~~Copies of the Code of Federal Regulations (CFR)~~ **These documents are incorporated by reference and copies** may be obtained from the Government Printing Office, Washington, D.C. 20402 and are available for copying at the Indiana Department of Environmental Management, Office of Air Management, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204-2220. *(Air Pollution Control Board; 326 IAC 2-3-1; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2401; filed Jan 6, 1989, 3:30 p.m.: 12 IR 1106; filed Nov 12, 1993, 4:00 p.m.: 17 IR 725; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1002; errata filed May 12, 1999, 11:23 a.m.: 22 IR 3105)*

SECTION 2. 326 IAC 2-3-2 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-3-2 Applicability
Authority: IC 13-1-1-4; IC 13-7-7
Affected: IC 13-1-1

Sec. 2. (a) This rule applies to new and modified major stationary sources or major modifications constructed in an area designated in 326 IAC 1-4 as nonattainment as of the date of submittal of a complete application, for a pollutant for which the stationary source or modification is major.

(b) This rule applies to modifications of major stationary sources of volatile organic compounds (VOC) ~~or oxides of nitrogen (NO_x)~~ in serious and severe ozone nonattainment areas as follows:

(1) A modification of a major stationary source with a de minimis increase in emissions shall be exempt from section 3 of this rule.

(2) A modification having an increase in emissions that is not de minimis to an existing major stationary source that does not have the potential to emit one hundred (100) tons or more of volatile organic compounds (VOC) ~~or oxides of nitrogen (NO_x)~~ per year will not be subject to section 3(a) of this rule if the owner or operator of the source elects to internal offset the increase by a ratio of one and three-tenths (1.3) to one (1). If the owner or operator does not make such an election or is unable to, section 3(a) of this rule applies, except that best available control technology (BACT) shall be substituted for lowest achievable emission rate (LAER) required by section 3(a)(2) of this rule.

(3) A modification having an increase in emissions that is not de minimis to an existing major stationary source emitting or having the potential to emit one hundred (100) tons of volatile organic compounds (VOC) ~~or oxides of nitrogen (NO_x)~~ or more per year will be subject to the requirements of section 3(a) of this rule, except that the owner or operator may elect to internal offset the increase at a ratio of one and three-tenths (1.3) to one (1) as a substitute for lowest achievable emission rate (LAER) required by section 3(a)(2) of this rule.

(c) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any federally enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then this rule applies to the source or modification as though construction had not yet commenced on the source or modification.

(d) In the case of an area which has been redesignated nonattainment, any source which would not have been required to submit a permit application under 326 IAC 2-2 concerning the prevention of significant deterioration will not be subject to this rule if construction commences within eighteen (18) months of the area's redesignation.

(e) Major stationary sources or major modifications which would locate in any area designated as attainment or unclassifiable in the state of Indiana and would exceed the following significant impact levels at any locality, for any pollutant, which is designated as nonattainment, must meet the requirements specified in section 3(a)(1) through 3(a)(3) of this rule. All values are expressed in micrograms per cubic meter ($\mu g/m^3$):

Pollutant	Annual	24-hour	8-hour	3-hour	1-hour
Sulfur dioxide	1	5	X	25	X
Total suspended particulates	1	5	X	X	X
PM_{10}	1	5	X	X	X
Nitrous oxides	1	X	X	X	X
Carbon monoxide	X	X	500	X	2,000

(f) This rule does not apply to a source or modification, other than a source of volatile organic compounds ~~or oxides of nitrogen~~ in a serious or severe ozone nonattainment area, or a source of PM_{10} in a serious PM_{10} area, that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(1) Coal cleaning plants (with thermal driers).
(2) Kraft pulp mills.
(3) Portland cement plants.
(4) Primary zinc smelters.
(5) Iron and steel mill plants.
(6) Primary aluminum ore reduction plants.
(7) Primary copper smelters.
(8) Municipal incinerators capable of charging more than two hundred fifty (250) tons of refuse per day.
(9) Hydrofluoric, sulfuric, and nitric acid plants.
(10) Petroleum refineries.
(11) Lime plants.
(12) Phosphate rock processing plants.
(13) Coke oven batteries.
(14) Sulfur recovery plants.
(15) Carbon black plants (furnace process).
(16) Primary lead smelters.

(17) Fuel conversion plants.
(18) Sintering plants.
(19) Secondary metal production plants.
(20) Chemical process plants.
(21) Fossil-fuel boilers (or combinations thereof) totaling more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
(22) Petroleum storage and transfer unit with a storage capacity exceeding three hundred thousand (300,000) barrels.
(23) Taconite ore processing plants.
(24) Glass fiber processing plants.
(25) Charcoal production plants.
(26) Fossil fuel-fired steam electric plants of more than two hundred fifty million (250,000,000) British thermal units per hour heat input.
(27) Any other stationary source category which, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

(g) For purposes of this rule, secondary emissions from a source need not be considered in determining whether the source would qualify as a major source. However, if a source is subject to this rule on the basis of the direct emissions from the source, the applicable conditions must also be met for secondary emissions. However, such secondary emissions may be exempt from the requirements specified in section 3(a)(2) through 3(a)(3) of this rule.

(h) Hazardous air pollutants listed in and regulated by 326 IAC 14-1 are not exempt from this rule.

(i) The installation, operation, cessation, or removal of temporary clean coal technology demonstration projects funded under the Department of Energy**?**Clean Coal Technology Appropriations may be exempt from the requirements of section 3 of this rule. To qualify for this exemption, the project must be at an existing facility, operate for no more than five (5) years, and comply with all other applicable rules for the area. *(Air Pollution Control Board; 326 IAC 2-3-2; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2404; filed Nov 12, 1993, 4:00 p.m.: 17 IR 728)*

SECTION 3. 326 IAC 2-3-3 IS AMENDED TO READ AS FOLLOWS:

326 IAC 2-3-3 Applicable requirements
Authority: IC 13-14-8; IC 13-17-3
Affected: IC 13-15; IC 13-17

Sec. 3. (a) Prior to the issuance of a construction permit to a source subject to this rule, the applicant

shall comply with the following requirements:

(1) The proposed major new source or major modification shall demonstrate that the source will meet all applicable requirements of this title, any applicable new source performance standard in 40 CFR 60*, or any national emission standard for hazardous air pollutants in 40 CFR 61*. If the commissioner determines that the proposed major new source cannot meet the applicable emission requirements, the permit to construct will be denied.

(2) The applicant will apply emission limitation devices or techniques to the proposed construction or modification such that the lowest achievable emission rate (LAER) for the applicable pollutant will be achieved.

(3) The applicant shall either demonstrate that all existing major sources owned or operated by the applicant in the state of Indiana are in compliance with all applicable emission limitations and standards contained in the Clean Air Act and in this title or demonstrate that they are in compliance with a federally enforceable compliance schedule requiring compliance as expeditiously as practicable.

(4) The applicant shall submit an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

(5) Emissions resulting from the proposed construction or modification shall be offset by a reduction in actual emissions of the same pollutant from an existing source or combination of existing sources. The emission offset shall be such that there will be reasonable further progress toward attainment of the applicable ambient air quality standards as follows:

(A) Greater than one-for-one, unless otherwise specified.

(B) For ozone nonattainment areas, the following table shall determine the minimum offset ratio requirements for major stationary sources of volatile organic compounds ~~or oxides of nitrogen~~:

Ozone Classification	Minimum Offset Requirements
Marginal	1.1 to 1
Moderate	1.15 to 1
Serious	1.2 to 1
Severe	1.3 to 1

(6) The applicant shall obtain the necessary preconstruction approvals and shall meet all the permit requirements specified in 326 IAC 2-5.1 or 326 IAC 2-7.

(b) The following provisions shall apply to all emission offset evaluations:

(1) Emission offsets shall be determined on a tons per year, and, whenever possible, a pounds per hour basis when all facilities requiring offset involved in the emission offset calculations are operating

at their maximum potential or allowed production rate. When offsets are calculated on a tons per year basis, the baseline emissions for existing sources providing the offsets shall be calculated using the allowed or actual annual operating hours, whichever is less.

(2) The baseline for determining credit for emission offsets will be the emission limitations or actual emissions, whichever is lower, in effect at the time the application to construct or modify a source is filed. Credit for emission offset purposes may be allowable for existing control that goes beyond that required by source-specific emission limitations contained in this title.

(3) In cases where the applicable rule under this title does not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be the actual emissions determined at their maximum expected or allowable production rate.

(4) In cases where emission limits for existing sources allow greater emissions than the uncontrolled emission rate of the source, emission offset credit shall only be allowed for emissions controlled below the uncontrolled emission rate.

(5) A source may receive offset credit from emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels; provided, that the work force to be affected has been notified of the proposed shutdown or curtailment. Emission offsets that involve reducing operating hours or production or source shutdowns must be federally enforceable. Emission offsets may be credited for a source shutdown or curtailment provided that the applicant can establish that such shutdown or curtailment occurred less than one (1) year prior to the date of permit application, and the proposed new source is a replacement for the shutdown or curtailment.

(6) Emission offset credit involving an existing fuel combustion source will be based on the allowable emissions under other rules of this title for the type of fuel being burned at the time the new source application is filed. If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is acceptable; provided, the permit is conditioned to require the use of a specific alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date. The commissioner will grant emission offset credit for fuel switching only after ensuring that adequate supplies of the new fuel are available at least for the next ten (10) years.

(7) In the case of volatile organic compound emissions, no emission offset credit may be allowed for replacing one (1) hydrocarbon compound with another of lesser reactivity, except for those compounds defined as nonphotochemically reactive hydrocarbons in 326 IAC 1-2-48.

(8) No emission reduction may be approved to offset emissions which cannot be federally enforced. Offsetting emissions shall be considered federally enforceable if the reduction is included as a condition in the applicable permit as specified in 326 IAC 2-5.1 or 326 IAC 2-7, if issued under a federally-approved air permit program.

(9) Emission reductions required under any other rule adopted by the air pollution control board shall not be creditable as emission reductions and therefore cannot be used for emission offsets.

(10) Incidental emission reductions that are not otherwise required by any other rule adopted by the air pollution control board shall be creditable as emission reductions for emission offsets if such emission reductions meet all of the other requirements for offsets.

(11) A source may offset by alternative or innovative means emission increases from rocket engine or motor firing and cleaning related to such firing at an existing or modified major source that tests rocket engines or motors under the following conditions:

(A) Any modification proposed is solely for the purpose of expanding the testing of rocket engines or motors at an existing source that is permitted to test such engines on November 15, 1990.

(B) The source demonstrates to the satisfaction of the department that it has used all reasonable means to obtain and utilize offsets, as determined on an annual basis, for the emissions increases beyond allowable levels, that all available offsets are being used, and that sufficient offsets are not available to the source.

(C) The source has obtained a written finding from:

(i) the Department of Defense;

(ii) the Department of Transportation;

(iii) the National Aeronautics and Space Administration; or

(iv) other appropriate federal agency;

that the testing of rocket motors or engines at the facility is required for a program essential to the national security.

(D) The source will comply with an alternative measure, imposed by the department, designed to offset any emission increases beyond permitted levels not directly offset by the source.

(Air Pollution Control Board; 326 IAC 2-3-3; filed Mar 10, 1988, 1:20 p.m.: 11 IR 2406; filed Nov 12, 1993, 4:00 p.m.: 17 IR 730; filed Nov 25, 1998, 12:13 p.m.: 22 IR 1005)

SECTION 4. 326 IAC 10-3 IS ADDED TO READ AS FOLLOWS:

Rule 3. Nitrogen Oxide Reduction Program for Specific Source Categories

326 IAC 10-3-1 Applicability

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule applies to any of the following:

(1) Portland cement kiln with process rates equal to or greater than:

~~(1)~~ (A) long dry kilns of twelve (12) tons per hour (tph);

~~(2)~~ (B) long wet kilns of ten (10) tph;

~~(3)~~ (C) preheater kilns of sixteen (16) tph; or

~~(4)~~ (D) precalciner and combined preheater and precalciner kilns of twenty-two (22) tph.

(2) The following affected boilers:

Source	Point ID	Unit
(A) Bethlehem Steel Corporation	075	Boiler #7
	076	Boiler #8

	077	**Boiler #9**
	078	**Boiler #10**
	079	**Boiler #11**
	080	**Boiler #12**
(B) Ispat Inland Incorporated	**280 & 281**	**Boiler #211**
	282 & 283	**Boiler #212**
	284 & 285	**Boiler #213**
	330	**Boiler #501**
	330	**Boiler #502**
	330	**Boiler #503**

(C) LTV Steel Company	**020**	**Boiler #4**
	021	**Boiler #5**
	022	**Boiler #6**
	023	**Boiler #7**
	024	**Boiler #8**
(D) U.S. Steel Company - Gary Works	**720**	**Boiler #1**
	720	**Boiler #2**
	720	**Boiler #3**
	701	**Boiler #1**
	701	**Boiler #2**
	701	**Boiler #3**
	701	**Boiler #5**
	701	**Boiler #6**

(3) Any other blast furnace gas fired boiler with a heat input greater than two hundred fifty million (250,000,000) million British thermal units per hour.

(b) A unit subject to this rule and a New Source Performance Standard (NSPS), a National Emission Standard for Hazardous Air Pollutants, or an emission limit established under 326 IAC 2 shall comply with the limitations and requirements of ~~this~~ the more stringent rule ~~or the limitations and requirements of a NSPS, a National Emission Standard for Hazardous Air Pollutants, or an emission limit established under 326 IAC 2, whichever is more stringent~~. For a unit subject to this rule and 326 IAC 10-1, compliance with ~~this rule~~ the emission limits in section 3(a)(1)(A) during the ozone control period shall be deemed to be compliance with the emission limits in 326 IAC 10-1-4(b)(1) during the ozone control period, and ~~the~~ such limits ~~established in section 3(a) of this rule~~ shall supersede those in 326 IAC 10-1-4(b)(1) during the ozone control period.

(c) The monitoring, record keeping, and reporting requirements under sections 4 and 5 of this rule shall not apply to a unit that ~~is participating in~~ opts into the NO_x budget trading program under 326 IAC 10-4.

(d) The requirements of this rule shall not apply to the specific units subject to this rule during startup and shutdown periods and periods of malfunction.

(e) During periods of blast furnace reline, startup, and period of malfunction, the affected boilers shall not be required to meet the requirement to derive fifty percent (50%) of the heat input from blast furnace gas. *(Air Pollution Control Board; 326 IAC 10-3-1)*

326 IAC 10-3-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between 326 IAC 1-2 and this rule. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2, the following definitions apply throughout this rule unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Blast furnace gas fired" means deriving at least fifty percent (50%) of its total heat input from the combustion of blast furnace gas during the ozone control period.

(2) "Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.

(3) "Clinker" means the product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

(4) "Continuous emission monitoring system" or "CEMS" means the total equipment necessary for the determination of a gas or particulate matter concentration or emission rate using pollutant analyzer measurements and a conversion equation, graph, or computer program to produce results in units of the applicable emission limitation or standard.

~~(1)~~ ~~(4)~~(5) "Long dry kiln" means a Portland cement kiln fourteen (14) feet or larger in diameter and four hundred (400) feet or greater in length that employs no preheating of the feed. The inlet feed to the kiln is dry.

~~(2)~~ ~~(5)~~(6) "Long wet kiln" means a Portland cement kiln fourteen (14) feet or larger in diameter and four hundred (400) feet or greater in length that employs no preheating of the feed. The inlet feed to the kiln is a slurry.

~~(3)~~ ~~(6)~~(7) "Low-NO_x burners" means a type of cement kiln burner system designed to lower NO_x formation by controlling flame turbulence, delaying fuel/air mixing, and establishing fuel-rich zones for initial combusting, that for firing of solid fuel by a kiln's main burner includes an indirect firing system or comparable technique for the main burner to lower the amount of primary combustion air supplied with the pulverized fuel. In an indirect firing system , one (1) air stream is used to convey pulverized fuel from the grinding equipment and another air stream is used to supply primary combustion air to the kiln burner with the pulverized fuel, with intermediate storage of the fuel.

~~(4)~~ ~~(7)~~(8) "Malfunction" means any sudden, infrequent, and not reasonably preventable

failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

~~(5)~~ ~~(8)~~(9) "Mid-kiln firing" means the secondary firing in a kiln system by injecting solid fuel at an intermediate point in the kiln system using a specially designed feed injection mechanism for the purpose of decreasing NO_x emissions through:

(A) burning part of the fuel at a lower temperature; and

(B) reducing conditions at the fuel injection point that may destroy some of the NO_x formed upstream in the kiln system.

~~(6)~~ ~~(9)~~(10) "Ozone control period" means the period as follows:

(A) For 2004, beginning May 31 and ending on September 30, inclusive.

(B) For 2005 and each year thereafter, beginning May 1 of a year and ending on September 30 of the same year, inclusive.

~~(7)~~ ~~(10)~~(11) "Portland cement" means a hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one (1) or more of the forms of calcium sulfate as an interground addition.

~~(8)~~ ~~(11)~~(12) "Portland cement kiln" means a system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

~~(9)~~ ~~(12)~~(13) "Precalciner kiln" means a kiln where the feed to the kiln system is preheated in cyclone chambers and a second burner is used to calcine material in a separate vessel attached to the preheater prior to the final fusion in a kiln that forms clinker.

~~(10)~~ ~~(13)~~(14) "Preheater kiln" means a Portland cement kiln where the feed to the kiln system is preheated in cyclone chambers prior to the final fusion in a kiln that forms clinker.

~~(14)~~(15) "Semi-dry pre-calciner kiln" means a kiln where the inlet feed to the kiln system is a wet slurry. The wet slurry is subsequently processed in an integrated system consisting of a dryer and a separately fired pre-calciner, which in combination, dries the excess moisture from the feed stream (using only exhaust gases from the pre-calciner and kiln), and calcines the resulting dried material before introduction into the rotary kiln. The final fusion in the kiln forms the clinker.

~~(11)~~ ~~(15)~~(16) "Shutdown" means the cessation of operation of a Portland cement kiln or affected boiler for any purpose.

~~(12)~~ ~~(16)~~(17) "Startup" means the setting in operation of a Portland cement kiln or affected boiler for any purpose.

(Air Pollution Control Board; 326 IAC 10-3-2)

326 IAC 10-3-3 Emissions limits

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 3. (a) After May 31, 2004, an owner or operator of any Portland cement kiln subject to this rule shall not operate the kiln during the ozone control period of each year unless the owner or operator complies with one (1) of the following:

(1) Operation of the kiln with one (1) of the following:

(A) Low-NO_x burners.

(B) Mid-kiln firing.

(2) A limit on the amount of NO_x emitted when averaged over the ozone control period as follows:

(A) For long wet kilns, six (6) pounds of NO_x per ton of clinker produced.

(B) For long dry kilns, five and one-tenth (5.1) pounds of NO_x per ton of clinker produced.

(C) For preheater kilns, three and eight-tenths (3.8) pounds of NO_x per ton of clinker produced.

(D) For precalciner and combined preheater and precalciner kilns, two and eight-tenths (2.8) pounds of NO_x per ton of clinker produced.

(3) Installation and use of alternative control techniques that may include kiln system modifications, such as conversions to ~~semi-drying~~ semi-dry precalciner kiln processing, subject to department and U.S. EPA approval, that achieve a thirty percent (30%) emissions decrease from baseline ozone control period emissions. Baseline emissions shall be the average of the sum of ozone control period emissions for the two (2) highest emitting years from 1995 through 2000 determined in accordance with subsection (d)(1).

(b) The owner or operator of any Portland cement kiln proposing to install and use an alternative control technique under subsection (a)(3) shall submit the proposed alternative control technique and calculation of baseline emissions with supporting documentation to the department and U.S. EPA for approval by May 1, 2003. The department shall include the approved plan with emission limitations in the source's operating permit.

(c) The owner or operator of any affected boiler subject to this rule shall limit NO_x emissions to seventeen hundredths pound of NO_x per million Btus (0.17 lb/mmBtu) of heat input averaged over the ozone control period and ensure that greater than fifty percent (50%) of the heat input shall be derived from blast furnace gas averaged over an ozone control period. By May 1, 2003, the owner or operator of an affected boiler shall submit to the department a compliance plan for approval by the department and U.S. EPA including the following:

(1) Baseline stack test data, or proposed testing, for establishment of fuel specific emission factors, or the emission factors for the type of boiler from the Compilation of Air Pollutant Emission Factors (AP-42), Fifth Edition, January 1995*, Supplements A through G, December 2000 for each fuel to be ~~combusted.~~ combusted. The fuel specific emission factor shall be developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7, 7A, 7C, 7D, or 7E***, based on a range of typical operating conditions. The owner or operator must establish that these operating conditions are representative, subject to approval by the department, and must certify that the emissions testing is being conducted under representative conditions.**

(2) Anticipated fuel usage and combination of fuels.

(3) If desired by the source, a proposal for averaging the emission limit and fuel allocation among commonly owned units, including the proposed methodology for determining compliance.

~~(c)~~ (d) ~~Ozone~~ Baseline ozone control period emissions shall be determined using one (1) of the following methods:

(1) The average of the emission factors for the type of kiln from the Compilation of Air Pollutant Emission Factors (AP-42), Fifth Edition, January 1995*, Supplements A through G, December 2000 and the ~~Alternative Control Techniques Document - NO$_x$ Emissions from Cement Manufacturing*.~~ Control Technologies for the Cement ~~Manufacturing~~ Industry, Final Report, September 19, 2000****.**

(2) The site-specific emission factor developed from representative emissions testing, pursuant to 40 CFR 60, Appendix A, Method 7, 7A, 7C, 7D, or 7E*, based on a range of typical operating conditions. The owner or operator must establish that these operating conditions are representative, subject to approval by the department, and must certify that the emissions testing is being conducted under representative conditions.**

(3) An alternate method for establishing the emissions factors, when submitted with supporting data to substantiate such emissions factors and approved by the department and U.S. EPA as set forth in subsection (b).

(4) For affected boilers, as outlined in the site specific compliance plan submitted under subsection (c).

***~~Copies of the Code of Federal Regulations (CFR), the Compilation of Air Pollutant Emission Factors (AP-42) and the Alternative Control Techniques Document-NO$_x$ Emissions from Cement Manufacturing referenced in this rule~~ */**These documents are incorporated by reference and AP-42 is available for purchase from U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 or can be reviewed at the**

Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204. */****These documents are incorporated by reference and may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-3-3)*

326 IAC 10-3-4 Monitoring and testing requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of a Portland cement kiln complying with section 3(a)(1) of this rule shall operate and maintain the device according to a preventative maintenance plan prepared in accordance with 326 IAC 1-6-3.

(b) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of a Portland cement kiln complying with section 3(a)(2) or 3(a)(3) of this rule shall ~~either:~~

~~(1) complete an initial performance test and subsequent annual testing during the ozone control period of each year consistent with the requirements of 40 CFR 60, Appendix A, Method 7, 7A , 7C, 7D, or 7E* and 326 IAC 3 or an alternate method approved pursuant to section 3(b) of this rule; or~~

~~(2)~~ monitor NO_x emissions during the ozone control period of each year using a NO_x CEMS in accordance with 40 CFR 60, Subpart A* and 40 CFR 60, Appendix B*, and comply with the quality assurance procedures specified in 40 CFR 60, Appendix F* and 326 IAC 3, as applicable.

(c) Beginning May 31, 2004 and each ozone control period thereafter, any owner or operator of an affected boiler or commonly owned affected boilers shall monitor fuel usage and percentage of heat input derived from each fuel combusted to demonstrate that greater than fifty percent (50%) of the heat input is derived from blast furnace gas.

***~~Copies of the Code of Federal Regulations (CFR)~~ These documents are incorporated by reference and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate**

Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-3-4)*

326 IAC 10-3-5 Record keeping and reporting
Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 5. (a) Beginning May 31, 2004, and each ozone control period thereafter, any owner or operator of a Portland cement kiln or affected boiler shall comply with the following record keeping and reporting requirements:

(1) An owner or operator of a Portland cement kiln complying with section 3(a)(1) of this rule shall create and maintain records that include, but are not limited to, the following:

(A) All routine and nonroutine maintenance, repair, or replacement performed on the device or devices.

(B) The date, time, and duration of any startup, shutdown or malfunction in the operation of a kiln or the device or devices.

(2) An owner or operator of a Portland cement kiln complying with section 3(a)(2) or 3(a)(3) of this rule or an affected boiler shall create and maintain records that include, but are not limited to, the following:

(A) ~~The~~ For Portland cement kilns, the following:

(i) Emissions, in pounds of NO_x per ton of clinker produced from each affected Portland cement kiln.

(ii) Daily clinker production records.

(B) For affected boilers, daily records of the fuel usage, including percentages of different fuels combusted and heat input derived from each fuel, including the following:

(i) Type of fuel used.

(ii) Quantity of fuel used.

(iii) Fuel specific emission factor (lbs/mmcft gas or lbs/1000 gal oil).

(iv) Fuel specific heat content (mmBtu/1000 gal for oil or mmBtu/mmcft for gas).

(v) Emissions in lb/mmBtu.

~~(B)~~ (C) The date, time and duration of any startup, shutdown, or malfunction in the operation of any of the Portland cement kilns, affected boilers or the emissions monitoring equipment.

~~(C)~~ (D) The results of any performance testing.

~~(D)~~ (E) If a unit is equipped with a CEMS, identification of time periods:

(i) during which NO_x standards are exceeded, the reason for the exceedance, and action taken to correct the exceedance and to prevent similar future exceedances; and

(ii) for which operating conditions and pollutant data were not obtained including

reasons for not obtaining sufficient data and a description of corrective actions taken.

~~(E)~~ (F) All records required to be produced or maintained shall be retained on site for a period of five (5) years. The records shall be made available to the department or the U.S. EPA upon request.

(b) ~~The owner or operator shall comply with the following reporting requirements:~~
~~(1)~~ By May 31, 2004, the owner or operator of a Portland cement kiln shall submit to the department the following information:

~~(A)~~ (1) The identification number and type of each unit subject to this rule.
~~(B)~~ (2) The name and address of the plant where the unit is located.
~~(C)~~ (3) The name and telephone number of the person responsible for demonstrating compliance with this rule.
~~(D)~~ (4) Anticipated control measures, if any.

~~(2)~~ (c) The owner or operator of a Portland cement kiln subject to this rule shall submit a report documenting for that unit the total NO_x emissions and the average NO_x emission rate for the ozone control period of each year to the department by October 31, beginning in 2004 and each year thereafter. For Portland cement kilns complying with section 3(a)(1) of this rule, estimated emissions and emission rate shall be determined in accordance with section 3(d) of this rule or from CEMS data, if a Portland cement kiln is equipped with a CEMS as of the effective date of this rule.

(d) The owner or operator of a Portland cement kiln complying with section 3(a)(1) of this rule shall include a certification with the report under subsection (c) that the control technology was installed, operated, and maintained in accordance with this rule.

(e) The owner or operator of an affected boiler subject to this rule shall submit a report to the department documenting compliance with all applicable requirements of this rule in accordance with its site specific compliance plan detailed under section 3(c) of this rule for the ozone control period of each year by October 31, beginning in 2004 and each year thereafter.

~~*Copies of the Code of Federal Regulations (CFR) referenced in this rule may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana 46204.~~ *(Air Pollution Control Board; 326 IAC 10-3-5)*

326 IAC 10-3-6 Violations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

(a) For purposes of determining the number of days of violations, if a Portland cement kiln or affected boiler has excess emissions for an ozone control period, each day in the ozone control period constitutes a day in violation unless the owners and operators demonstrate that a lesser number of days should be considered. *(Air Pollution Control Board; 326 IAC 10-3-6)*

SECTION 5. 326 IAC 10-4 IS ADDED TO READ AS FOLLOWS:

Rule 4. Nitrogen Oxides Budget Trading Program

326 IAC 10-4-1 Applicability
Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 1. (a) This rule establishes a NO_x emissions budget and NO_x trading program for electricity generating units and large affected units as described in this rule. The following units shall be NO_x budget units, and any source that includes one (1) or more NO_x budget units shall be a NO_x budget source, and shall be subject to the requirements of this rule:
(1) An electricity generating unit (EGU) as defined under section ~~2(15)~~ 2(16) of this rule.
(2) A large affected unit as defined in section ~~2(25)~~ 2(27) of this rule.

(b) A unit described under subsection (a) shall not be a NO_x budget unit, if the unit has a federally enforceable permit that meets the requirements of subdivisions (1) through (3):
(1) The federally enforceable permit includes terms and conditions that restrict the unit to burning only natural gas or fuel oil during the ozone control period in 2004 or the first year of operation for the source and each ozone control period thereafter.
(2) The federally enforceable permit includes terms and conditions that restrict ~~the unit's operating hours during each ozone control period to the number of hours, determined in accordance with subdivisions (3)(B) and (3)(C), that limits~~ the unit's potential NO_x mass emissions for the ozone control period to twenty-five (25) tons or less.
(3) For each ozone control period, the federally enforceable permit must do the following:
(A) Restrict the unit to burning only natural gas or fuel oil during an ozone control period in 2004 or later and each ozone control period thereafter.
(B) Include one (1) of the following mechanisms for ensuring that the unit's ozone control period NO_x emissions do not exceed twenty-five (25) tons:
(i) Limit the unit's total actual control period emissions to twenty-five (25) tons of NO_x

emissions, measured by a continuous emissions monitoring system (CEMS) in accordance with 40 CFR 75, Subpart H* and section 12 of this rule or monitoring approved under 40 CFR 75, Appendix E*.

(ii) Restrict the unit's operating hours to the number calculated by dividing twenty-five (25) tons of potential NO_x mass emissions by the unit's maximum potential hourly NO_x mass emissions, where the unit's potential NO_x mass emissions shall be calculated as follows:

(AA) Select the default NO_x emission rate in 40 CFR 75.19(c)~~(1)(ii)~~, Table LM-2* that would otherwise be applicable assuming that the unit burns only the type of fuel, for example only natural gas or only fuel oil, that has the highest default NO_x emission factor of any type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(BB) Multiply the default NO_x emission rate under subitem (AA) by the unit's maximum rated hourly heat input. The owner or operator of the unit may petition the department to use a lower value for the unit's maximum rated hourly heat input than the value as defined under section 2(24) of this rule. The department may approve the lower value if the owner or operator demonstrates that the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative, and that the lower value is representative, of the unit's current capabilities because modifications have been made to the unit, limiting its capacity permanently.

(iii) Restrict the unit's usage of each fuel that it is authorized to burn such that the unit's potential NO_x mass emissions will not exceed twenty-five (25) tons per ozone control period, calculated as follows:

(AA) Identify the default NO_x emission rate in 40 CFR 75.19(c)~~(1)(ii)~~, Table LM-2* or an alternative emission rate determined in accordance with 40 CFR 75.19(c)(1)(iv)* for each type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(BB) Identify the ~~percentage of the ozone control period during which the unit intends to burn~~ amount of each type of fuel (in mmBtu) that ~~is authorized under the fuel use restriction in clause (A). For each fuel type, multiply this percentage by twenty-five (25) tons and multiply the results by two thousand (2,000) pounds per ton to identify the maximum emissions from each fuel type~~ the unit burned during the ozone control period.

(CC) ~~Calculate the maximum amount of each fuel that may be burned at the source, using~~ For each type of fuel identified in (BB), multiply the default NO_x emission rate under item (AA) and the ~~total emissions allowable from each fuel type~~ amount (in mmBtu) of the fuels burned by the unit during the ozone control period.

(DD) Sum the products in (CC) to verify that the unit's NO_x emissions were equal to or less than twenty-five (25) tons.

(C) Require that the owner or operator of the unit shall retain records, on site at the source or at a central location within Indiana for those owner or operators with unattended sources that includes the unit for a period of five (5) years, demonstrating that the terms and conditions of the permit related to these restrictions were met. Records retained at a central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA~~upon request and shall be submitted~~ within three (3) business days following receipt of ~~the request.~~ a written request. Nothing in this clause shall alter the record retention requirements for a source under 40 CFR 75*.

(D) Require that the owner or operator of the unit shall report the unit's hours of operation, treating any partial hour of operation as a whole hour of operation, or such other parameter as is being used to demonstrate compliance with the twenty-five (25) ton per ozone control period during each ozone control period to the department by November 1 of each year for which the unit is subject to the federally enforceable permit.

The unit shall be subject only to the requirements of this subsection starting with the effective date of the federally enforceable permit under subdivision (1).

(4) Within thirty (30) days after a final decision, the department shall notify the U.S. EPA in writing when a unit under subsection (a):

(A) is issued a federally enforceable permit under subsection (b); or

(B) whose federally enforceable permit issued by the department under subsection (b):

(i) is revised to remove any restriction;

(ii) includes any restriction that is no longer applicable; or

(iii) does not comply with any restriction.

(5) A unit described under this subsection shall be a NO_x budget unit, subject to the requirements of this rule if one (1) of the following occurs for any ozone control period:

(A) The fuel use restriction under subdivision (3)(A) or the ~~operating hours~~ ~~the~~ applicable restriction under subdivision (3)(B) ~~and (3)(C)~~ is removed from the unit's federally enforceable permit or otherwise becomes no longer applicable.

(B) The unit does not comply with the fuel use restriction under subdivision (3)(A) or the ~~operating hours~~ ~~the~~ applicable restriction under subdivision (3)(B) ~~and (3)(C)~~.

The unit shall be treated as commencing operation and, for a unit under subsection (a)(1), commencing commercial operation on September 30 of the ozone control period for which the fuel use restriction or the ~~operating hours~~ applicable restriction is no longer applicable or during which the unit does not comply with the fuel use restriction

or the ~~operating hours~~ applicable restriction.

(6) A unit exempt under this subsection shall comply with the restriction in subdivision (3) during the ozone control period in each year.

(7) The department will allocate NO_x allowances to the unit under section 9(d). For each control period for which the unit is allocated NO_x allowances under section 9(d) of this rule:

(A) the owners and operators of the unit must specify a general account, in which U.S. EPA will record the NO_x allowances; and

(B) after U.S. EPA records the NO_x allowance allocation under section 9(d) of this rule, the U.S. EPA will deduct, from the general account in clause (A), NO_x allowances that are allocated for the same or a prior ozone control period as the NO_x allowances allocated under section 9(d) and that equal the NO_x emission limitation (in tons of NO_x) on which the unit's exemption under this subsection is based. The NO_x authorized account representative shall ensure that the general account contains the NO_x allowances necessary for completion of the deduction.

(c) A unit subject to 40 CFR 97* shall be subject to the requirements of this rule on May 1, 2004~~, and shall no longer be subject to 40 CFR 97* as of that date~~. Allowances for such unit shall be allocated in accordance with section 9 of this rule for the 2004 ozone control period and thereafter. Allowances from the compliance supplement pool shall be allocated in accordance with section 15 of this rule and any banked allowances shall be available for use under this rule beginning in ~~2004.~~

2004. A unit subject to 40 CFR 97* may petition the commissioner for an extension of the compliance date from May 1, 2004, to a date no later than May 31, 2004, and the commissioner shall grant the petition if but only if final U.S. EPA action, final federal legislation, or an order from a court of competent jurisdiction delays the compliance date under 40 CFR 97* beyond May 1, 2004.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-1)*

326 IAC 10-4-2 Definitions

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-11-2; IC 13-15; IC 13-17

Sec. 2. For purposes of this rule, the definition given for a term in this rule shall control in any conflict between 326 IAC 1-2 and this rule. In addition to the definitions provided in IC 13-11-2 and 326 IAC 1-2, the following definitions apply throughout this rule, unless expressly stated otherwise or unless the context clearly implies otherwise:

(1) "Account certificate of representation" means the completed and signed submission required by section 6 of this rule for certifying the designation of a NO_x authorized account representative for a NO_x budget source or a group of identified a NO_x budget sources who is authorized to represent the owners and operators of the source or sources and of the NO_x budget units at the source or sources with regard to matters under the NO_x budget trading program.

(2) "Account number" means the identification number given by the U.S. EPA to each NO_x allowance tracking system account.

(3) "Acid rain emissions limitation" means, as defined in 40 CFR 72.2*, a limitation on emissions of sulfur dioxide or nitrogen oxides under the acid rain program under Title IV of the Clean Air Act (CAA).

(4) "Allocate" or "allocation" means the determination by the department or the U.S. EPA of the number of NO_x allowances to be initially credited to a NO_x budget unit or an allocation set-aside.

(5) "Automated data acquisition and handling system" or ~~"ADHS"~~"DAHS" means that component of the CEMS, or other emissions monitoring system approved for use under 40 CFR 75, Subpart H*, designed to interpret and convert individual output signals from pollutant concentration monitors, flow monitors, diluent gas monitors, and other component parts of the monitoring system to produce a continuous record of the measured parameters in the measurement units required by 40 CFR 75, Subpart H*.

(6)"Boiler" means an enclosed fossil or other fuel-fired combustion device used to produce heat and to transfer heat to recirculating water, steam, or other heat transfer medium.

(7) "Combined cycle system" means a system comprised of one (1) or more combustion turbines, heat recovery steam generators, and steam turbines configured to improve overall efficiency of electricity generation or steam production.

(8) "Combustion turbine" means an enclosed fossil or other fuel-fired device that is comprised of a compressor, a combustor, and a turbine, and in which the flue gas resulting from the combustion of fuel in the combustor passes through the turbine, rotating the turbine.

(9) "Commence commercial operation" means, with regard to a unit that serves a generator, to have begun to produce steam, gas, or other heated medium used to generate electricity for sale or use, including test generation subject to the following:

(A) Except as provided in section 3 of this rule, for a unit that is a NO_x budget unit under section 1 of this rule on the date the unit commences commercial operation, the date

shall remain the unit's date of commencement of commercial operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO_x budget unit under section 1 of this rule on the date the unit commences commercial operation, the date the unit becomes a NO_x budget unit under section 1 of this rule shall be the unit's date of commencement of commercial operation.

(10) "Commence operation" means to have begun any mechanical, chemical, or electronic process, including, with regard to a unit, startup of a unit's combustion chamber subject to the following:

(A) Except as provided in section 3 of this rule, for a unit that is a NO_x budget unit under section 1 of this rule on the date of commencement of operation, the date shall remain the unit's date of commencement of operation even if the unit is subsequently modified, reconstructed, or repowered.

(B) Except as provided in section 3 or 13 of this rule, for a unit that is not a NO_x budget unit under section 1 of this rule on the date of commencement of operation, the date the unit becomes a NO_x budget unit under section 1 of this rule shall be the unit's date of commencement of operation.

(11) "Common stack" means a single flue through which emissions from two (2) or more units are exhausted.

(12) "Compliance account" means a NO_x allowance tracking system account, established by the U.S. EPA for a NO_x budget unit under section 10 of this rule, in which the NO_x allowance allocations for the unit are initially recorded and in which are held NO_x allowances available for use by the unit for an ozone control period for the purpose of meeting the unit's NO_x budget emissions limitation.

(13) "Compliance certification" means a submission to the department or the U.S. EPA, as appropriate, that is required under section 8 of this rule to report a NO_x budget source's or a NO_x budget unit's compliance or noncompliance with this rule and that is signed by the NO_x authorized account representative in accordance with section 6 of this rule.

(14) "Continuous emission monitoring system" or "CEMS" means the equipment required under 40 CFR 75, Subpart H* to sample, analyze, measure, and provide, by readings taken at least once every fifteen (15) minutes of the measured parameters, a permanent record of nitrogen oxides emissions, expressed in tons per hour for NO_x. The following systems are component parts included, consistent with 40 CFR 75*, in a continuous emission monitoring system:

(A) Flow monitor.

(B) Nitrogen oxides pollutant concentration monitors.

(C) Diluent gas monitor, oxygen or carbon dioxide, when the monitoring is required by 40 CFR 75, Subpart H*.

(D) A continuous moisture monitor when the monitoring is required by 40 CFR 75, Subpart H*.

(E) An automated data acquisition and handling system.

(15) "Electricity for sale under firm contract to the grid" means electricity for sale where the capacity involved is intended to be available at all times during the period covered by a guaranteed commitment to deliver, even under adverse conditions.

~~(15)~~ (16) "Electricity generating unit" or "EGU" means the following:

(A) For units that commenced operation before January 1, 1997, a unit serving a generator during 1995 or 1996 that had a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid.

(B) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit serving a generator during 1997 or 1998 that had a nameplate capacity greater than twenty-five (25) megawatts and produced electricity for sale under a firm contract to the electric grid.

(C) For units that commence operation on or after January 1, 1999, a unit serving a generator at any time that has a nameplate capacity greater than twenty-five (25) megawatts and produces electricity for sale.

~~(16)~~ (17) ~~"Emissions"~~ "Emissions", ~~means air pollutants~~ , for the purpose of this rule, means ~~air pollutants~~ nitrogen oxides exhausted from a unit or source into the atmosphere, as measured, recorded, and reported to the U.S. EPA by the NO_x authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H*.

~~(17)~~ (18) "Energy efficiency or renewable energy projects" means any of the following implemented in Indiana:

(A) End-use energy efficiency projects, including demand-side management programs.

(B) Highly efficient electricity generation for the ~~primary~~ predominant use of a single end user, such as ~~cogeneration~~ combined cycle, combined heat and power, microturbines, and fuel cell systems. In order to be considered as highly efficient electricity generation under this clause, combined cycle, combined heat and power, microturbines, and fuel cell generating systems must meet or exceed the following thresholds:

(i) For combined heat and power projects generating both electricity and thermal energy for space, water, or industrial process heat, rated energy efficiency of sixty percent (60%).

(ii) For microturbine projects rated at or below five hundred (500) kilowatts generating capacity, rated energy efficiency of forty percent (40%).

(iii) For combined cycle projects rated at greater than five hundred (500) kilowatts, rated energy efficiency of fifty percent (50%).

(iv) For fuel cell systems, rated energy efficiency of forty percent (40%), whether or not the fuel cell system is part of a combined heat and power energy system.

(C) Zero-emission renewable energy projects, including wind, photovoltaic, and hydropower projects. Eligible hydropower projects are restricted to systems employing a head of ten (10) feet or less or systems employing a head greater than ten (10) feet that make use of a dam that existed prior to the effective date of this rule.

(D) ~~Projects~~Energy efficiency projects generating electricity through the capture of methane gas from sanitary landfills, water treatment plants, or sewage treatment plants.

~~(D)~~ (E) The installation of highly efficient electricity generation equipment for the sale of power where such equipment replaces or displaces retired electrical generating units~~, except for equipment that is a NO_x budget unit~~. In order to be considered as highly efficient under this clause, generation equipment must meet or exceed the following energy efficiency thresholds:

(i) For coal-fired electrical generation units, rated energy efficiency of forty-two percent (42%).

(ii) For natural gas-fired electrical generating units, rated energy efficiency of fifty percent (50%).

~~(E)~~ (F) Improvements to existing fossil fuel fired electrical generation units that increase the efficiency of the unit and decrease the heat rate used to generate electricity.

Energy efficiency or renewable energy projects do not include nuclear power projects. This definition is solely for the purposes of implementing this rule and does not apply in other contexts.

~~(18)~~ (19) "Energy Information Administration" means the Energy Information Administration of the United States Department of Energy.

~~(19)~~ (20) "Excess emissions" means any tonnage of NO_x emitted by a NO_x budget unit during an ozone control period that exceeds the NO_x budget emissions limitation for the unit.

~~(20)~~ (21) "Fossil fuel" means any of the following:

(A) Natural gas.

(B) Petroleum.

(C) Coal.

(D) Any form of solid, liquid, or gaseous fuel derived from the above material.

~~(21)~~ (22) "Fossil fuel-fired" means, with regard to a unit, the combustion of fossil fuel, alone or in combination with any other fuel, under any of the following scenarios:

(A) Fossil fuel actually combusted comprises more than fifty percent (50%) of the annual heat input on a British thermal unit (Btu) basis during any year starting in 1995. If a unit had no heat input starting in 1995, during the last year of operation of the unit prior to 1995.

(B) Fossil fuel is projected to comprise more than fifty percent (50%) of the annual heat input on a Btu basis during any year, provided that the unit shall be fossil fuel-fired as of the date, during the year, that the unit begins combusting fossil fuel.

~~(22)~~ (23) "General account" means a NO_x allowance tracking system account, established under section 10 of this rule, that is not a compliance account or an overdraft account.

~~(23)~~ (24) "Generator" means a device that produces electricity.

~~(24)~~ (25) "Heat input" means the product, in million British thermal units per unit of time (mmBtu/time), of the following:

(A) The gross calorific value of the fuel, in British thermal units per pound (Btu/lb).

(B) The fuel feed rate into a combustion device, in mass of fuel per unit of time (lb/time), as measured, recorded, and reported to the U.S. EPA by the NO_x authorized account representative and as determined by the U.S. EPA in accordance with 40 CFR 75, Subpart H*.

Heat input does not include the heat derived from preheated combustion air, recirculated flue gases, or exhaust from other sources.

(26) "Heat input rate" means the amount of heat input (in mmBtu) divided by unit operating time (in hours) or, with regard to a specific fuel, the amount of heat input attributed to the fuel (in mmBtu) divided by the unit operating time (in hours) during which the unit combusts the fuel.

~~(25)~~ (27) "Large affected unit" means the following:

(A) For units that commenced operation before January 1, 1997, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1995 or 1996 a generator producing electricity for sale under a firm contract to the electric grid.

(B) For units that commenced operation on or after January 1, 1997, and before January 1, 1999, a unit that has a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour and that did not serve during 1997 or 1998 a generator producing electricity for sale under a firm contract to the electric grid.

(C) For units that commence operation on or after January 1, 1999, a unit with a maximum design heat input greater than two hundred fifty million (250,000,000) Btus per hour that:

(i) at no time serves a generator producing electricity for sale; or

(ii) at any time serves a generator producing electricity for sale, if any such generator has a nameplate capacity of twenty-five (25) megawatts or less and has the potential to use no more than fifty percent (50%) of the potential electrical output capacity of the unit.

Large affected unit does not include a unit subject to 326 IAC 10-3.

~~(26)~~ (28) "Life-of-the-unit, firm power contractual arrangement" means a unit participation

power sales agreement under which a utility or industrial customer reserves, or is entitled to receive, a specified amount or percentage of nameplate capacity and associated energy from any specified unit and pays its proportional amount of the unit's total costs, pursuant to a contract:

(A) for the life of the unit;

(B) for a cumulative term of no less than thirty (30) years, including contracts that permit an election for early termination; or

(C) for a period equal to or greater than twenty-five (25) years or seventy percent (70%) of the economic useful life of the unit determined as of the time the unit is built, with option rights to purchase or release some portion of the nameplate capacity and associated energy generated by the unit at the end of the period.

~~(27)~~ (29) "Maximum design heat input" means the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical design and physical characteristics of the unit ~~and federally enforceable permit conditions limiting the heat input~~.

~~(28)~~ (30) "Maximum potential hourly heat input" means an hourly heat input used for reporting purposes when a unit lacks certified monitors to report heat input. The unit may use either of the following:

(A) 40 CFR 75, Appendix D* to report heat input. Calculate this value in accordance with 40 CFR 75*, using the maximum fuel flow rate and the maximum gross calorific value.

(B) A flow monitor and a diluent gas monitor. Report this value in accordance with 40 CFR 75*, using the maximum potential flow rate and either of the following:

(i) The maximum carbon dioxide (CO_2) concentration, in percent of CO_2.

(ii) The minimum oxygen (O_2) concentration, in percent of O_2.

~~(29)~~ (31) "Maximum potential NO_x emission rate" means:

(A) the emission rate of nitrogen oxides, in pounds per million British thermal units (lb/mmBtu);

(B) calculated in accordance with 40 CFR 75, Appendix F, Section 3*;

(C) using the maximum potential nitrogen oxides concentration as defined in 40 CFR 75, Appendix A, Section 2*; and

(D) either the:

(i) maximum oxygen (O_2) concentration in percent of O_2; or

(ii) minimum carbon dioxide (CO_2) concentration in percent of CO_2;

under all operating conditions of the unit except for unit start up, shutdown, and upsets.

~~(30)~~ (32) "Maximum rated hourly heat input" means a unit-specific maximum hourly heat input, in million British thermal units (mmBtu), that is the higher of either the manufacturer's maximum rated hourly heat input or the highest observed hourly heat input.

~~(31)~~ (33) "Monitoring system" means any monitoring system that meets the requirements of 40 CFR 75, Subpart H*, including the following:

(A) A continuous emissions monitoring system.

(B) An excepted monitoring system under 40 CFR 75.19* or 40 CFR 75, Appendix D or E*.

(C) An alternative monitoring system.

~~(32)~~ (34) "Most stringent state or federal NO_x emissions limitation" means, with regard to a NO_x budget opt-in source, the lowest NO_x emissions limitation, in terms of pounds per million British thermal units (lb/mmBtu), that is applicable to the unit under state or federal law, regardless of the averaging period to which the emissions limitation applies. ~~(33)~~ (35) "Nameplate capacity" means the maximum electrical generating output, in megawatt electrical (MWe), that a generator can sustain over a specified period of time when not restricted by seasonal or other deratings as measured in accordance with the United States Department of Energy standards.

~~(34)~~ (36) "Nontitle V permit" means a federally enforceable permit issued by the department under 326 IAC 2-8.

~~(35)~~ (37) "NO_x allowance" means an authorization by the department or the U.S. EPA under the nitrogen oxides (NO_x) budget trading program to emit up to one (1) ton of NO_x during the ozone control period of the specified year or of any year thereafter, except as provided in section 14(b) of this rule. "NO_x allowance" also includes an authorization to emit up to one (1) ton of nitrogen oxides during the ozone control period of the specified year or of any year thereafter by the U.S. EPA under 40 CFR 97* or by a permitting authority in accordance with a state NO_x budget trading program established pursuant to 40 CFR 51.121* and approved and administered by the U.S. EPA.

~~(36)~~ (38) "NO_x allowance deduction" or "deduct NO_x allowances" means the permanent withdrawal of NO_x allowances by the U.S. EPA from a NO_x allowance tracking system compliance account or overdraft account to account for the number of tons of NO_x emissions from a NO_x budget unit for an ozone control period, determined in accordance with 40 CFR 75, Subpart H* and section 12 of this rule, or for any other allowance surrender obligation under this rule.

~~(37)~~ (39) "NO_x allowance tracking system" means the system by which the U.S. EPA records allocations, deductions, and transfers of NO_x allowances under the NO_x budget trading program.

~~(38)~~ (40) "NO_x allowance tracking system account" means an account in the NO_x allowance tracking system established by the U.S. EPA for purposes of recording the allocation, holding, transferring, or deducting of NO_x allowances.

~~(39)~~ (41) "NO_x allowance transfer deadline" means midnight of November 30 or, if November 30 is not a business day, midnight of the first business day thereafter and is the

deadline by which NO_x allowances may be submitted for recordation in a NO_x budget unit's compliance account, or the overdraft account of the source where the unit is located, in order to meet the unit's NO_x budget emissions limitation for the ozone control period immediately preceding the deadline.

~~(40)~~ (42) "NO_x allowances held" or "hold NO_x allowances" means the NO_x allowances recorded by the U.S. EPA, or submitted to the U.S. EPA for recordation, in accordance with sections 10 and 11 of this rule, in a NO_x allowance tracking system account.

~~(41)~~ (43) "NO_x authorized account representative" means either of the following:

(A) For a NO_x budget source or NO_x budget unit at the source, the natural person who is authorized by the owners and operators of the source and all NO_x budget units at the source, in accordance with section 6 of this rule, to represent and legally bind each owner and operator in matters pertaining to the NO_x budget trading program.

(B) For a general account, the natural person who is authorized, in accordance with section 10 of this rule, to transfer or otherwise dispose of NO_x allowances held in the general account.

~~(42)~~ (44) "NO_x budget emissions limitation" means, for a NO_x budget unit, the tonnage equivalent of the NO_x allowances available for compliance deduction for the unit and for an ozone control period under section 10(i) and 10(k) of this rule, adjusted by any deductions of the NO_x allowances for any of the following reasons:

(A) ~~To account for actual utilization under section 9(e) of this rule for the ozone control period.~~

~~(B)~~ To account for excess emissions for a prior ozone control period under section 10(k)(5) of this rule.

~~(C)~~ (B) To account for withdrawal from the NO_x budget trading program.

~~(D)~~ (C) For a change in regulatory status, for a NO_x budget opt-in source under section 13(g) through 13(i) of this rule.

~~(43)~~ (45) "NO_x budget opt-in permit" means a NO_x budget permit covering a NO_x budget opt-in source.

~~(44)~~ (46) "NO_x budget opt-in source" means a source that includes one (1) or more NO_x budget units:

(A) that has elected to become a NO_x budget source under the NO_x budget trading program; and

(B) whose NO_x budget opt-in permit has been issued and is in effect under section 13 of this rule.

~~(45)~~ (47) "NO_x budget permit" means the legally binding and federally enforceable written document, or portion of the document:

(A) issued by the department under this rule, including any permit revisions; and

(B) specifying the NO_x budget trading program requirements applicable to the following:

(i) A NO_x budget source.

(ii) Each NO_x budget unit at the NO_x budget source.

(iii) The owners and operators and the NO_x authorized account representative of the NO_x budget source and each NO_x budget unit.

~~(46)~~ (48) "NO_x budget source" means a source that includes one (1) or more NO_x budget units.

~~(47)~~ (49) "NO_x budget trading program" means a multi-state nitrogen oxides air pollution control and emission reduction program established in accordance with this rule, 40 CFR 97* and a state NO_x budget trading program established pursuant to 40 CFR 51.121* and approved and administered by the ~~51.121*,~~U.S. EPA, as a means of mitigating the interstate transport of ozone and nitrogen oxides, an ozone precursor.

~~(48)~~ (50) "NO_x budget unit" means a unit that is subject to the NO_x budget trading program emissions limitation under section 1(a) or 13(a) of this rule.

~~(49)~~ (51) "Operating" means, with regard to a unit under sections 7(c)(4)(B) and 13(a) of this rule, having documented heat input for more than eight hundred seventy-six (876) hours in the six (6) months immediately preceding the submission of an application for an initial NO_x budget permit under section 13(d) of this rule.

~~(50)~~ (52) "Operator" means any person who operates, controls, or supervises a NO_x budget unit, a NO_x budget source, or a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn and shall include, but not be limited to, any holding company, utility system, or plant manager of a unit or source.

~~(51)~~ (53) "Opt-in" means to elect to become a NO_x budget unit under the NO_x budget trading program through a final, effective NO_x budget opt-in permit under section 13 of this rule.

~~(52)~~ (54) "Overdraft account" means the NO_x allowance tracking system account, established by the U.S. EPA under section 10 of this rule, for each NO_x budget source where there are two (2) or more NO_x budget units.

~~(53)~~ (55) "Owner" means any of the following persons:

(A) Any holder of any portion of the legal or equitable title in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(B) Any holder of a leasehold interest in a NO_x budget unit or in a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(C) Any purchaser of power from a NO_x budget unit or from a unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn under a life-of-the-unit, firm power contractual

arrangement. However, unless expressly provided for in a leasehold agreement, owner shall not include a passive lessor, or a person who has an equitable interest through the lessor, whose rental payments are not based, either directly or indirectly, upon the revenues or income from the NO_x budget unit or the unit for which an application for a NO_x budget opt-in permit under section 13(d) of this rule is submitted and not denied or withdrawn.

(D) With respect to any general account, any person who has an ownership interest with respect to the NO_x allowances held in the general account and who is subject to the binding agreement for the NO_x authorized account representative to represent that person's ownership interest with respect to NO_x allowances.

~~(54)~~ (56) "Ozone control period" means the period as follows:

(A) For 2004, the following:

(i) For units not subject to 40 CFR 97*, beginning May 31 and ending on September 30, inclusive.

(ii) For units subject to 40 CFR 97*, beginning May 1 and ending on September 30, inclusive.

(B) For 2005 and each year thereafter, beginning May 1 of a year and ending on September 30 of the same year, inclusive.

(57) "Percent monitor data availability" means, for purposes of section 13(e)(2) and section 15(b)(1)(D)~~and section 13(e)(2)~~ of this rule, total unit operating hours for which quality-assured data were recorded under 40 CFR 75, Subpart H* and section 12 of this rule in a control period, divided by the total number of unit operating hours per control period, and multiplied by one hundred percent (100%).

(58) "Potential electrical output capacity" means thirty-three percent (33%) of a unit's maximum design heat input.

(59) "Rated energy efficiency" means the percentage of gross energy input that is recovered as useable net energy output in the form of electricity or thermal energy, or both, that is used for heating, cooling, industrial processes, or other beneficial uses as follows:

(A) For electric generators, rated energy efficiency is calculated as one (1) net kilowatt hour (three thousand four hundred twelve (3,412) British thermal units) of electricity divided by the unit's design heat rate using the higher heating value of the fuel.

(B) For combined heat and power projects, rated energy efficiency is calculated using the following formula:

$$Eff\% = (NEO + UTO) / GEI$$

Where: Eff% = Rated energy efficiency

NEO = Net electrical output of the system converted to British thermal units per unit of time.

UTO = Utilized thermal output or the energy value in British thermal units of thermal energy from the system that is used for heating, cooling, industrial processes, or other beneficial uses, per unit of time.

GEI = Gross energy input, based upon the higher heating value of fuel, per unit of time.

~~(55)~~ (60) "Receive" or "receipt of" means, when referring to the department or the U.S. EPA, to come into possession of a document, information, or correspondence, whether sent in writing or by authorized electronic transmission, as indicated in an official correspondence log, or by a notation made on the document, information, or correspondence, by the department or the U.S. EPA in the regular course of business.

~~(56)~~ (61) "Recordation", "record", or "recorded" means, with regard to NO_x allowances, the movement of NO_x allowances by the U.S. EPA from one (1) NO_x allowance tracking system account to another, for purposes of allocation, transfer, or deduction.

~~(57)~~ (62) "Reference method" means any direct test method of sampling and analyzing for an air pollutant as specified in 40 CFR 60, Appendix A*.

~~(58)~~ (63) "Serial number" means, when referring to NO_x allowances, the unique identification number assigned to each NO_x allowance by the U.S. EPA, under section 10(e) through 10(g) of this rule.

~~(59)~~ (64) "Source" means any governmental, institutional, commercial, or industrial structure, installation, plant, building, or facility that emits or has the potential to emit any regulated air pollutant under the CAA. For purposes of Section 502(c) of the CAA, a source, including a source with multiple units, shall be considered a single facility.

~~(60)~~ (65) "Submit" or "serve" means to send or transmit a document, information, or correspondence to the person specified in accordance with the applicable regulation:

(A) in person;

(B) by United States Postal Service; or

(C) by other means of dispatch or transmission and delivery.

Compliance with any submission, service, or mailing deadline shall be determined by the date of dispatch, transmission, or mailing and not the date of receipt.

~~(61)~~ (66) "Title V operating permit" means a permit issued under 326 IAC 2-7.

~~(62)~~ (67) "Title V operating permit regulations" means the rules under 326 IAC 2-7.

~~(63)~~ (68) "Ton" or "tonnage" means any short ton, two thousand (2,000) pounds. For the purpose of determining compliance with the NO_x budget emissions limitation, total tons for an ozone control period shall be calculated as the sum of all recorded hourly emissions, or the tonnage equivalent of the recorded hourly emissions rates, in accordance with 40 CFR 75, Subpart H*, with any remaining fraction of a ton equal to or greater than ~~five-tenths~~

fifty-hundredths (0.50) ton deemed to equal one (1) ton and any fraction of a ton less than ~~five-tenths~~ fifty-hundredths (0.50) ton deemed to equal zero (0) tons.

~~(64)~~ (69) "Trading program budget" means the total number of NO_x tons apportioned to all NO_x budget units, in accordance with the NO_x budget trading program, for use in a given ozone control period.

~~(65)~~ (70) "Unit" means a fossil fuel-fired:

(A) stationary boiler;

(B) combustion turbine; or

(C) combined cycle system.

~~(66)~~ (71) "Unit operating day" means a calendar day in which a unit combusts any fuel.

~~(67)~~ (72) "Unit operating hour" or "hour of unit operation" means any hour, or fraction of an hour, during which a unit combusts any fuel.

~~(68)~~ (73) "United States Environmental Protection Agency" or "U.S. EPA" means the administrator of the U.S. EPA or the administrator's duly authorized representative. The department authorizes the U.S. EPA to assist the department in implementing this rule by carrying out the functions set forth for the U.S. EPA in this rule.

~~(69)~~ (74) "Utilization" means the heat input, expressed in million British thermal units per unit of time, for a unit. The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be based on the best available data reported to the U.S. EPA for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-2)*

326 IAC 10-4-3 Retired unit exemption

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 3. (a) This section applies to any NO_x budget unit, other than a NO_x budget opt-in source, that is permanently retired.

(b) Any NO_x budget unit, other than a NO_x budget opt-in source, that is permanently

retired shall be exempt from the NO_x budget trading program, except for the provisions of this section and sections 1, 2, 5, and 9 through 11 of this rule.

(c) An exemption under this section shall become effective the day on which the unit is permanently retired. Within thirty (30) days of permanent retirement, the NO_x authorized account representative, authorized in accordance with section 6 of this rule, shall submit a notice to the department and the U.S. EPA. The notice shall state, in a format prescribed by the department, that the unit:

(1) is permanently retired; and

(2) shall comply with the requirements of subsection (e).

(d) After receipt of the notice under subsection (c), the department shall amend any permit covering the source at which the unit is located to add the provisions and requirements of the exemption under subsections (b) and (e).

(e) A unit exempt under this section shall comply with the following provisions:

(1) The unit shall not emit any nitrogen oxides, starting on the date that the exemption takes effect.

(2) The owners and operators of the unit shall be allocated allowances in accordance with section 9 of this rule. For each ozone control period for which the unit is allocated one (1) or more NO_x allowances, the owners and operators of the unit shall specify a general account, in which U.S. EPA will record the NO_x allowances.

(3) If the unit is located at a source that is required, or but for this exemption would be required, to have an operating permit under 326 IAC 2-7, the unit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x budget permit application under section 7(c) of this rule for the unit not less than ~~eighteen (18) months~~ two hundred seventy (270) days prior to the later of:

(A) May 31, 2004; or

(B) the date on which the unit is to first resume operation.

(4) If the unit is located at a source that is required, or but for this exemption would be required, to have a FESOP permit under 326 IAC 2-8, the unit shall not resume operation unless the NO_x authorized account representative of the source submits a complete NO_x budget permit application under section 7(c) of this rule for the unit not less than two hundred seventy (270) days prior to the later of:

(A) May 31, 2004; or

(B) the date on which the unit is to first resume operation.

(5) The owners and operators and, to the extent applicable, the NO_x authorized account representative shall comply with the requirements of the NO_x budget trading program

concerning all periods for which the exemption is not in effect, even if the requirements arise, or must be complied with, after the exemption takes effect.

(6) A unit that is exempt under this section is not eligible to be a NO_x budget opt-in unit under section 13 of this rule.

(7) The owners and operators shall retain records at the source, or at a central location within Indiana for those owners or operators with unattended sources, demonstrating that the unit is permanently retired for a period of five (5) years. The five (5) year period for keeping records may be extended for cause, at any time prior to the end of the period, in writing by the department or the U.S. EPA. The owners and operators bear the burden of proof that the unit is permanently retired. Records retained at a central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA~~upon request andshall be submitted~~ within three (3) business days following receipt of ~~the request.~~a written request. Nothing in this subdivision shall alter the record retention requirements for a source under 40 CFR 75*.

(8) A unit exempt under subsection (b) shall lose its exemption on the earlier of the following dates:

(A) The date on which the NO_x authorized account representative submits a NO_x budget permit application under subdivision (3) or (4).

(B) The date on which the NO_x authorized account representative is required under subdivision (3) or (4) to submit a NO_x budget permit application.

For the purpose of applying monitoring requirements under 40 CFR 75, Subpart H*, a unit that loses its exemption under this section shall be treated as a unit that commences operation or commercial operation on the first date on which the unit resumes operation.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-3)*

326 IAC 10-4-4 Standard requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 4. (a) The owners, operators, and NO_x authorized account representative of each NO_x budget source shall comply with the following permit requirements:

(1) The NO_x authorized account representative of each NO_x budget source required to

have a federally enforceable permit and each NO_x budget unit required to have a federally enforceable permit at the source shall submit the following:

(A) A complete NO_x budget permit application under section 7(c) of this rule to the department in accordance with the deadlines specified in section 7(b) of this rule.

(B) Any supplemental information that the department determines is necessary in order to review a NO_x budget permit application in a timely manner and issue or deny a NO_x budget permit.

(2) The owners and operators of each NO_x budget source required to have a federally enforceable permit and each NO_x budget unit required to have a federally enforceable permit at the source shall have a NO_x budget permit and operate the unit in compliance with the NO_x budget permit.

(3) The owners and operators of a NO_x budget source that is not otherwise required to have a federally enforceable permit are not required to submit a NO_x budget permit application, nor to have a NO_x budget permit, under section 7 of this rule for the NO_x budget source.

(b) The owners and operators and, to the extent applicable, the NO_x authorized account representative of each NO_x budget source and each NO_x budget unit at the source shall comply with the following monitoring requirements:

(1) The monitoring requirements of 40 CFR 75* and section 12 of this rule.

(2) The emissions measurements recorded and reported in accordance with 40 CFR 75* and section 12 of this rule shall be used to determine compliance by the unit with the NO_x budget emissions limitation under subsection (c).

(c) The owners and operators of each NO_x budget source shall comply with the following NO_x requirements:

(1) The owners and operators of each NO_x budget source and each NO_x budget unit at the source shall hold NO_x allowances available for compliance deductions under section 10(i) of this rule, as of the NO_x allowance transfer deadline, in the unit's compliance account and the source's overdraft account in an amount:

(A) not less than the total NO_x emissions for the ozone control period from the unit, as determined in accordance with 40 CFR 75* and section 12 of this rule~~, plus any amount necessary to account for actual utilization under section 9(e) of this rule for the ozone control period~~;

(B) to account for excess emissions for a prior ozone control period under section 10(k)(5) of this rule; or

(C) to account for withdrawal from the NO_x Budget Trading Program, or a change in regulatory status~~,~~ of a NO_x Budget opt-in unit.

(2) Each ton of NO_x emitted in excess of the NO_x budget emissions limitation shall

constitute a separate violation of the Clean Air Act (CAA) and this rule.

(3) A NO_x budget unit shall be subject to the requirements under subdivision (1) starting on the later of:

(A) May 31, 2004; or

(B) the date on which the unit commences operation.

(4) NO_x allowances shall be held in, deducted from, or transferred among NO_x allowance tracking system accounts in accordance with sections 9 through 11, 13, and 14 of this rule.

(5) A NO_x allowance shall not be deducted, in order to comply with the requirements under subdivision (1), for an ozone control period in a year prior to the year for which the NO_x allowance was allocated.

(6) A NO_x allowance allocated under the NO_x budget trading program is a limited authorization to emit one (1) ton of NO_x in accordance with the NO_x budget trading program. No provision of the NO_x budget trading program, the NO_x budget permit application, the NO_x budget permit, or an exemption under section 3 of this rule and no provision of law shall be construed to limit the authority of the U.S. EPA or the department to terminate or limit the authorization.

(7) A NO_x allowance allocated under the NO_x budget trading program does not constitute a property right.

(8) Upon recordation by the U.S. EPA under section 10, 11, or 13 of this rule, every allocation, transfer, or deduction of a NO_x allowance to or from a NO_x budget unit's compliance account or the overdraft account of the source where the unit is located is deemed to amend automatically, and become a part of, any NO_x budget permit of the NO_x budget unit by operation of law without any further review.

(d) The owners and operators of a NO_x budget unit that has excess emissions in any ozone control period shall do the following:

(1) Surrender the NO_x allowances required for deduction under section 10(k)(5) of this rule.

(2) Pay any fine, penalty, or assessment or comply with any other remedy imposed under section 10(k)(7) of this rule.

(e) The owners and operators of each NO_x budget source shall comply with the following record keeping and reporting requirements:

(1) Unless otherwise provided, the owners and operators of the NO_x budget source and each NO_x budget unit at the source shall keep <u>either</u> on site at the source <u>or at a central location within Indiana for those owners or operators with unattended sources</u>, each of the following documents for a period of five (5) years. This period may be extended for cause, at any time prior to the end of five (5) years, in writing by the department or the U.S. EPA:

(A) The account certificate of representation for the NO_x authorized account

representative for the source and each NO_x budget unit at the source and all documents that demonstrate the truth of the statements in the account certificate of representation, in accordance with section 6(h) of this rule. The certificate and documents shall be retained on site at the source beyond the five (5) year period until the documents are superseded because of the submission of a new account certificate of representation changing the NO_x authorized account representative.

(B) All emissions monitoring information, in accordance with 40 CFR 75* and section 12 of this rule, provided that to the extent that 40 CFR 75* and section 12 of this rule provides for a three (3) year period for record keeping, the three (3) year period shall apply.

(C) Copies of all reports, compliance certifications, and other submissions and all records made or required under the NO_x budget trading program.

(D) Copies of all documents used to complete a NO_x budget permit application and any other submission under the NO_x budget trading program or to demonstrate compliance with the requirements of the NO_x budget trading program.

Records retained at a central location within Indiana shall be available immediately at the location and submitted to the department or U.S. EPA~~upon request and shall be submitted~~ within three (3) business days following receipt of ~~the request.~~ a written request. Nothing in this subdivision shall alter the record retention requirements for a source under 40 CFR 75*.

(2) The NO_x authorized account representative of a NO_x budget source and each NO_x budget unit at the source shall submit the reports and compliance certifications required under the NO_x budget trading program, including those under section 8, 12, or 13 of this rule.

(f) The owners and operators of each NO_x budget source shall be liable as follows:

(1) Any person who knowingly violates any requirement or prohibition of the NO_x budget trading program, a NO_x budget permit, or an exemption under section 3 of this rule shall be subject to enforcement pursuant to applicable state or federal law.

(2) Any person who knowingly makes a false material statement in any record, submission, or report under the NO_x budget trading program shall be subject to criminal enforcement pursuant to the applicable state or federal law.

(3) No permit revision shall excuse any violation of the requirements of the NO_x budget trading program that occurs prior to the date that the revision takes effect.

(4) Each NO_x budget source and each NO_x budget unit shall meet the requirements of the NO_x budget trading program.

(5) Any provision of the NO_x budget trading program that applies to a NO_x budget source, including a provision applicable to the NO_x authorized account representative of a NO_x

budget source, shall also apply to the owners and operators of the source and of the NO_x budget units at the source.

(6) Any provision of the NO_x budget trading program that applies to a NO_x budget unit, including a provision applicable to the NO_x authorized account representative of a NO_x budget unit, shall also apply to the owners and operators of the unit. Except with regard to the requirements applicable to units with a common stack under 40 CFR 75* and section 12 of this rule, the owners and operators and the NO_x authorized account representative of one (1) NO_x budget unit shall not be liable for any violation by any other NO_x budget unit of which they are not owners or operators or the NO_x authorized account representative and that is located at a source of which they are not owners or operators or the NO_x authorized account representative.

(g) No provision of the NO_x budget trading program, a NO_x budget permit application, a NO_x budget permit, or an exemption under section 3 of this rule shall be construed as exempting or excluding the owners and operators and, to the extent applicable, the NO_x authorized account representative of a NO_x budget source or NO_x budget unit from compliance with any other provision of the applicable, approved state implementation plan, a federally enforceable permit, or the CAA.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-4)*

326 IAC 10-4-5 Computation of time

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 5. (a) Unless otherwise stated, any time period scheduled, under the NO_x budget trading program, to begin on the occurrence of an act or event shall begin on the day the act or event occurs.

(b) Unless otherwise stated, any time period scheduled, under the NO_x budget trading program, to begin before the occurrence of an act or event shall be computed so that the period ends the day before the act or event occurs.

(c) Unless otherwise stated, if the final day of any time period except the ozone control period as defined under section ~~2(54)~~ 2(56) of this rule, under the NO_x budget trading program, falls on a weekend or a state or federal holiday, the time period shall be extended to the next business day. *(Air Pollution Control Board; 326 IAC 10-4-5)*

326 IAC 10-4-6 NO_x authorized account representative for NO_x budget sources

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 6. (a) Except as provided under subsection (f), each NO_x budget source, including all NO_x budget units at the source, shall have one (1) and only one (1) NO_x authorized account representative, with regard to all matters under the NO_x budget trading program concerning the source or any NO_x budget unit at the source.

(b) The NO_x authorized account representative of the NO_x budget source shall be selected by an agreement binding on the owners and operators of the source and all NO_x budget units at the source.

(c) Upon receipt by the U.S. EPA of a complete account certificate of representation under subsection (h), the NO_x authorized account representative of the source shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each owner and operator of the NO_x budget source represented and each NO_x budget unit at the source in all matters pertaining to the NO_x budget trading program, not withstanding any agreement between the NO_x authorized account representative and the owners and operators. The owners and operators shall be bound by any decision or order issued to the NO_x authorized account representative by the department, the U.S. EPA, or a court regarding the source or unit.

(d) A NO_x budget permit shall not be issued, and a NO_x allowance tracking system account shall not be established for a NO_x budget unit at a source, until the U.S. EPA has received a complete account certificate of representation under subsection (h) for a NO_x authorized account representative of the source and the NO_x budget units at the source.

(e) The following shall apply to a submission made under the NO_x budget trading program:

(1) Each submission under the NO_x budget trading program shall be submitted, signed, and certified by the NO_x authorized account representative for each NO_x budget source on behalf of which the submission is made. Each submission shall include the following certification statement by the NO_x authorized account representative: "I am authorized to

make this submission on behalf of the owners and operators of the NO_x budget sources or NO_x budget units for which the submission is made. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.".

(2) The department and the U.S. EPA shall accept or act on a submission made on behalf of the owner or operators of a NO_x budget source or a NO_x budget unit only if the submission has been made, signed, and certified in accordance with subdivision (1).

(f) The following shall apply where the owners or operators of a NO_x budget source chose to designate an alternate NO_x authorized account representative:

(1) An account certificate of representation may designate one (1) and only one (1) alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative. The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(2) Upon receipt by the U.S. EPA of a complete account certificate of representation under subsection (h), any representation, action, inaction, or submission by the alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(3) Except in this subsection, subsections (a), (g), and (h), and section 10(c) through 10(e) of this rule, whenever the term NO_x authorized account representative is used in this rule, the term shall be construed to include the alternate NO_x authorized account representative.

(g) The following shall apply when changing the NO_x authorized account representative, the alternate NO_x authorized account representative or there are changes in the owners and operators:

(1) The NO_x authorized account representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete account certificate of representation under subsection (h). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding account certificate of representation shall be binding on the new NO_x authorized account representative and the owners and operators

of the NO_x budget source and the NO_x budget units at the source.

(2) The alternate NO_x authorized account representative may be changed at any time upon receipt by the U.S. EPA of a superseding complete account certificate of representation under subsection (h). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding account certificate of representation shall be binding on the new alternate NO_x authorized account representative and the owners and operators of the NO_x budget source and the NO_x budget units at the source.

(3) Changes in the owners and operators shall be made as follows:

(A) In the event a new owner or operator of a NO_x budget source or a NO_x budget unit is not included in the list of owners and operators submitted in the account certificate of representation, the new owner or operator shall be deemed to be subject to and bound by the account certificate of representation, the representations, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the department or the U.S. EPA, as if the new owner or operator were included in the list.

(B) Within thirty (30) days following any change in the owners and operators of a NO_x budget source or a NO_x budget unit, including the addition of a new owner or operator, the NO_x authorized account representative or alternate NO_x authorized account representative shall submit a revision to the account certificate of representation amending the list of owners and operators to include the change.

(h) A complete account certificate of representation for a NO_x authorized account representative or an alternate NO_x authorized account representative shall include the following elements in a format prescribed by the U.S. EPA:

(1) Identification of the NO_x budget source and each NO_x budget unit at the source for which the account certificate of representation is submitted.

(2) The name, address, e-mail address, if any, telephone number, and facsimile transmission number, if any, of the NO_x authorized account representative and any alternate NO_x authorized account representative.

(3) A list of the owners and operators of the NO_x budget source and of each NO_x budget unit at the source.

(4) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or alternate NO_x authorized account representative, as applicable, by an agreement binding on the owners and operators of the

NO_x budget source and each NO_x budget unit at the source. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x budget trading program on behalf of the owners and operators of the NO_x budget source and of each NO_x budget unit at the source and that each owner and operator shall be fully bound by my representations, actions, inactions, or submissions and by any decision or order issued to me by the department, the U.S. EPA, or a court regarding the source or unit.".

(5) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA will be under any obligation to review or evaluate the sufficiency of the documents, if submitted.

(i) The following shall apply to an objection concerning the NO_x authorized account representative:

(1) Once a complete account certificate of representation under subsection (h) has been submitted and received, the department and the U.S. EPA will rely on the account certificate of representation unless and until a superseding complete account certificate of representation under subsection (h) is received by the U.S. EPA.

(2) Except as provided in subsection (g)(1) and (g)(2), no objection or other communication submitted to the department or the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative shall affect any representation, action, inaction, or submission of the NO_x authorized account representative or the finality of any decision or order by the department or the U.S. EPA under the NO_x budget trading program.

(3) Neither the department nor the U.S. EPA will adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of any NO_x authorized account representative, including private legal disputes concerning the proceeds of NO_x allowance transfers.

(Air Pollution Control Board; 326 IAC 10-4-6)

326 IAC 10-4-7 Permit requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15-5; IC 13-17

Sec. 7. (a) For each NO_x budget source required to have a federally enforceable permit, the permit shall include a NO_x budget permit administered by the department as follows:

(1) For NO_x budget sources required to have a Part 70 operating permit under 326 IAC 2-

7, the NO_x budget portion of the Part 70 permit shall be administered in accordance with 326 IAC 2-7, except as provided otherwise by this section or section 13 of this rule. (2) For NO_x budget sources required to have a FESOP permit, the NO_x budget portion of the FESOP permit shall be administered in accordance with 326 IAC 2-8, except as provided otherwise by this section or section 13 of this rule.

(3) Each NO_x budget permit, including a draft or proposed NO_x budget permit, if applicable, shall contain all applicable NO_x budget trading program requirements and shall be a complete and segregable portion of the permit.

(b) The NO_x authorized account representative of any NO_x budget source required to have a federally enforceable permit shall submit to the department a complete NO_x budget permit application under subsection (c) as follows:

(1) For NO_x budget sources required to have a Part 70 operating permit under 326 IAC 2-7 the following shall apply:

(A) For any source, with one (1) or more NO_x budget units that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application ~~under subsection (c) covering the NO_x budget units~~ to the department ~~within the applicable permit application review time frames in 326 IAC 2-1.1-8 and 326 IAC 2-7, assuming the maximum review time is required, such that the source submits the application before~~ at least two hundred seventy (270) days prior to May 31, 2004.

(B) For any source, with one (1) or more NO_x budget unit that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application ~~under subsection (c) covering each NO_x budget unit to the department within the applicable permit application review time frames in 326 IAC 2-1.1-8 and 326 IAC 2-7, assuming the maximum review time is required, such that the source submits the application before~~ at least two hundred seventy (270) days prior to the later of:

(i) May 31, 2004; or

(ii) the date on which the NO_x budget unit commences operation.

(C) For permit renewal, the NO_x authorized account representative shall submit a complete NO_x budget permit application ~~under subsection (c) for the NO_x budget source~~ covering the NO_x budget units at the source in accordance with 326 IAC 2-7-4(a)(1)(D).

(2) For NO_x budget sources required to have a FESOP permit under 326 IAC 2-8 the following shall apply:

(A) For any source, with one (1) or more NO_x budget units that commenced operation before January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application under subsection (c) covering each NO_x budget

~~units~~ unit to the department at least two hundred seventy (270) days before May 31, 2004.

(B) For any source, with one (1) or more NO_x budget units that commences operation on or after January 1, 2001, the NO_x authorized account representative shall submit a complete NO_x budget permit application under subsection (c) covering each NO_x budget unit to the department at least two hundred seventy (270) days before the later of:

(i) May 31, 2004; or

(ii) the date on which the NO_x budget unit commences operation.

(C) For permit renewal, the NO_x authorized account representative shall submit a complete NO_x budget permit application under subsection (c) for the NO_x budget source covering the NO_x budget units at the source in accordance with 326 IAC 2-8-3(h).

(c) In addition to the requirements of 326 IAC 2-7-4(c) or 326 IAC 2-8-3(c), a complete NO_x budget permit application shall include, in a format prescribed by the department, the following elements concerning the NO_x budget source for which the application is submitted~~, in a format prescribed by the department~~:

(1) Identification of the NO_x budget source, including plant name and the Office of Regulatory Information Systems (ORIS) or facility code assigned to the source by the Energy Information Administration, if applicable.

(2) Identification of each NO_x budget unit at the NO_x budget source and whether it is a NO_x budget unit under section 1(a) or 13 of this rule.

(3) The standard requirements under section 4 of this rule.

(4) For each NO_x budget opt-in unit at the NO_x budget source, the following certification statements by the NO_x authorized account representative:

(A) "I certify that each unit for which this permit application is submitted under 326 IAC 10-4-13 is not a NO_x budget unit under 326 IAC 10-4-2(a) and is not covered by a retired unit exemption under 326 IAC 10-4-3 that is in effect.".

(B) If the application is for an initial NO_x budget opt-in permit, "I certify that each unit for which this permit application is submitted under 326 IAC 10-4-13 is currently operating, as that term is defined under 326 IAC ~~10-4-1(45)~~ 10-4-1(51).".

(d) In addition to the requirements under 326 IAC 2-7 or 326 IAC 2-8, each NO_x budget permit, including any draft or proposed NO_x budget permit, if applicable, shall contain, in a format prescribed by the department, all elements required for a complete NO_x budget permit application under subsection (c) ~~as approved or adjusted by the department~~.

(e) Each NO_x budget permit is deemed to incorporate automatically the definitions of terms under section 2 of this rule and, upon recordation by the U.S. EPA under section 10, 11, or 13

of this rule, every allocation, transfer, or deduction of a NO_x allowance to or from the compliance accounts of the NO_x budget units covered by the permit or the overdraft account of the NO_x budget source covered by the permit.

(f) Notwithstanding IC 13-15-5, the initial NO_x budget permit covering a NO_x budget unit for which a complete NO_x budget permit application is timely submitted under subsection (b) shall become effective upon issuance.

(g) Except as provided in subsection (e), the department shall revise the NO_x budget permit, as necessary, in accordance with the following:

(1) The permit modification and revision provisions under 326 IAC 2-7, for a NO_x budget source with a Part 70 operating permit.

(2) The permit modification and revision provisions under 326 IAC 2-8, for a NO_x budget source with a FESOP permit.

(Air Pollution Control Board; 326 IAC 10-4-7)

326 IAC 10-4-8 Compliance certification

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 8. (a) For each ozone control period in which one (1) or more NO_x budget units at a source are subject to the NO_x budget emissions limitation, the NO_x authorized account representative of the source shall submit to the department and the U.S. EPA by November 30 of that year, a compliance certification report for each source covering all NO_x budget units.

(b) The NO_x authorized account representative shall include in the compliance certification report under subsection (a) the following elements, in a format prescribed by the U.S. EPA, concerning each NO_x budget unit at the source and subject to the NO_x budget emissions limitation for the ozone control period covered by the report:

(1) Identification of each NO_x budget unit.

(2) At the NO_x authorized account representative's option, the serial numbers of the NO_x allowances that are to be deducted from each unit's compliance account under section 10(k) of this rule for the ozone control period.

(3) At the NO_x authorized account representative's option, for units sharing a common stack and having NO_x emissions that are not monitored separately or apportioned in accordance with 40 CFR 75, Subpart H* and section 12 of this rule, the percentage of allowances that is to be deducted from each unit's compliance account under section

10(k)(8) of this rule.

(4) The compliance certification under subsection (c).

(c) In the compliance certification report under subsection (a), the NO_x authorized account representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the NO_x budget units at the source in compliance with the NO_x budget trading program, whether each NO_x budget unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the NO_x budget trading program applicable to the unit, including the following:

(1) Whether the unit was operated in compliance with the NO_x budget emissions limitation.

(2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit, and contains all information necessary to attribute NO_x emissions to the unit, in accordance with 40 CFR 75, Subpart H* and section 12 of this rule.

(3) Whether all the NO_x emissions from the unit, or a group of units, including the unit, using a common stack, were monitored or accounted for through the missing data procedures and reported in the quarterly monitoring reports, including whether conditional data were reported in the quarterly reports in accordance with 40 CFR 75, Subpart H* and section 12 of this rule. If conditional data were reported, the owner or operator shall indicate whether the status of all conditional data has been resolved and all necessary quarterly report resubmissions ~~has~~ have been made.

(4) Whether the facts that form the basis for certification under 40 CFR 75, Subpart H* and section 12 of this rule of each monitor at the unit or a group of units, including the unit, using a common stack, or for using an excepted monitoring method or alternative monitoring method approved under 40 CFR 75, Subpart H* and section 12 of this rule, if any, ~~has~~ have changed.

(5) If a change is required to be reported under subdivision (4), the NO_x authorized account representative shall specify the following:

(A) The nature of the change.

(B) The reason for the change.

(C) When the change occurred.

(D) How the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

(d) The department or the U.S. EPA may review and conduct independent audits concerning any compliance certification or any other submission under the NO_x budget trading program

and make appropriate adjustments of the information in the compliance certifications or other submissions.

(e) The U.S. EPA may deduct NO_x allowances from or transfer NO_x allowances to a unit's compliance account or a source's overdraft account based on the information in the compliance certifications or other submissions, as adjusted under subsection (a).

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-8)*

326 IAC 10-4-9 NO_x allowance allocations

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 9. (a) The trading program budget allocated by the department under ~~subsection (c)~~ subsections (d) through (f) for an ozone control period shall equal the total number of tons of NO_x emissions apportioned to the NO_x budget units under section 1 of this rule for the ozone control period, as determined by the procedures in this section. The total number of tons of NO_x emissions that are available for allocation as NO_x allowances under this ~~section~~ rule are fifty-three thousand nine hundred sixty (53,960) tons apportioned as follows:

(1) For existing units:

(A) forty-three thousand six hundred fifty-four (43,654) tons for electricity generating units in 2004 through ~~2006~~ 2009 and forty-five thousand thirty-three (45,033) tons thereafter; and

~~(2)~~ (B) ~~Nine thousand eight hundred fifty-five (9,855)~~ six thousand eight hundred forty-nine (6,849) tons for large affected units;

~~The total number of NO_x allowances shall be adjusted, as needed, to account for units exempted~~ less the sum of the NO_x limitations (in tons) for each unit under section 1(b) of this rule that is not allocated any NO_x allowances under subsection (d) for the ozone control period and whose NO_x emission limitation (in tons of NO_x) is not included in the amount calculated under subsection (e) for the control period.

(2) For new unit allocation set-aides:

(A) two thousand two hundred ninety-eight (2,298) tons for electricity generating units in 2004 through 2009, and nine hundred nineteen (919) tons thereafter; and

(B) eighty (80) tons of the large affected unit budget) for large affected units in 2004 and each year thereafter.

(3) For the energy efficiency and renewable energy allocation set-aside, one thousand seventy-nine (1,079) tons.

(b) The department shall allocate NO_x allowances to NO_x budget units according to the following schedule:

(1) ~~A~~For EGUs, a three (3) year allocation that is recorded three (3) years in advance of the ozone control period that the allowances may be used ~~with an initial three (3) year allocation shall be~~ as follows:

(A) ~~By June 30, 2001~~ Within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control periods in 2004, 2005, and 2006.

(B) By December 31, 2003, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control period in 2007, 2008, and 2009.

(C) By December 31, 2006, the department shall submit to the U.S. EPA the NO_x allowance allocations, in accordance with subsection (c), for the ozone control period in 2010, 2011, and 2012.

(D) By December 31, 2009, and by December 31 every three (3) years thereafter, the department shall submit to the U.S. EPA, the NO_x allowance allocations, in accordance with subsection (c), for the ozone control periods four (4) years, five (5) years and six (6) years after the year of the allowance allocation.

(2) For large affected units, within thirty (30) days of the effective date of this rule, the department shall submit to the U.S. EPA the NO_x allowances for the ozone control periods in 2004 through 2009. By December 31, 2006, the department shall review the allocations in light of emission trends, new units and other relevant factors to determine whether revisions are appropriate.

~~(2)~~ (3) If the department fails to submit to the U.S. EPA the NO_x allowance allocations in accordance with this subdivision, the U.S. EPA will allocate, for the applicable ozone control period, the same number of NO_x allowances as were allocated for the preceding ozone control period.

~~(3)~~(4) The department shall make available to the public the NO_x allowance allocations under subdivisions (1)(B), (1)(C), and (1)(D) on December 31 of each year cited in subdivisions (1)(B), (1)(C), and (1)(D) and shall provide a thirty (30) day opportunity for submission of objections to the NO_x allowance allocations. Objections shall be limited to addressing whether the NO_x allowance allocations are in accordance with this section. Based on any such objections, the department shall consider any objections and, if

appropriate, adjust each determination to the extent necessary to ensure that it is in accordance with this section. Any revised NO_x allowance allocations shall be submitted to the U.S. EPA for recordation by the following April 1.

(c) The heat input, in million British thermal units (mmBtu), used for calculating NO_x allowance allocations for each NO_x budget unit under section 1 of this rule shall be:

(1) For a NO_x allowance allocation under subsections (b)(1)(A), the average of the two (2) highest amounts of the unit's heat input for the ozone control periods in 1995 through 1999.

(2) For a NO_x allowance allocation under subsection (b)(1)(B) through (b)(1)(D), the unit's average of the two (2) highest heat inputs for the ozone control period in the years that are one (1), two (2), three (3), four (4), and five (5) years before the year when the NO_x allocation is being calculated. For the purpose of this subdivision, the ozone control period for the year 2004 shall be from May 1 through September 30.

(3) If NO_x budget unit does not does not have a full five (5) years of heat inputs, the following shall apply:

(A) For a unit with more than two (2) years, the average of the two (2) highest heat inputs.

(B) For a unit with two (2) years of heat input, the average of the heat input for the two (2) years.

(C) For a unit with one (1) year of heat input, the actual heat input for that year.

(4) For a NO_x allowance allocation under subsections (b)(1)(B), (b)(1)(C), and (b)(1)(D) for a unit exempt under section 1(b) of this rule, the heat input shall be treated as zero (0) if the unit was exempt during the previous allocation period.

The unit's total heat input for the ozone control period in each year shall be determined in accordance with 40 CFR 75* if the NO_x budget unit was otherwise subject to the requirements of 40 CFR 75* for the year, or shall be based on the best available data reported to the department for the unit if the unit was not otherwise subject to the requirements of 40 CFR 75* for the year. The owner or operator of a NO_x budget unit shall submit heat input data within thirty (30) days if requested by the department.

(d) For each ozone control period under subsection (b), the department shall allocate to all NO_x budget units that have been in operation for ~~two (2) years~~ at least one (1) year prior to the year in which allocations are made, and for new NO_x budget units that have commenced operation on or after May 1, 2000 and that have not submitted notification in accordance with subsection (i), a total number of NO_x allowances equal to the amount under subsection (a)(1), in accordance with the following procedures:

(1) The department shall allocate NO_x allowances to each electricity generating unit in an amount equaling fifteen-hundredths pound per million British thermal units (0.15 lb/mmBtu)

or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent, except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a natural gas-fired electrical generating unit with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on 0.15 lb/mmBtu notwithstanding the allowable emission rate, multiplied by the heat input determined under subsection (c), rounded to the nearest whole NO_x allowance, as appropriate.

(2) If the initial total number of NO_x allowances allocated to all electricity generating ~~unit~~ units for an ozone control period under subdivision (1) does not equal the amount under subsection (a)(1), the department shall adjust the total number of NO_x allowances allocated to all NO_x budget units for the ozone control period under subdivision (1) so that the total number of NO_x allowances allocated equals the amount under subsection (a)(1). This adjustment shall be made by:

(A) multiplying each unit's allocation by the amount under subsection (a)(1); and

(B) dividing by the total number of NO_x allowances allocated under subdivision (1), and rounding to the nearest whole NO_x allowance, as appropriate.

(3) The department shall allocate NO_x allowances to each large affected unit in an amount equaling ~~one (1) of~~ the following:

~~**(A) For units operating each year between 1995 and 1999, seventeen-hundredths (0.17) pound per million British thermal units or the baseline emission rate, whichever is more stringent, multiplied by the heat input determined under subsection (c), rounded to the nearest whole NO_x allowance, as appropriate. The baseline emission rate shall be the average ozone control period emission rate for the years 1995 through 1999.**~~

~~**(B) For units that did not operate each year between 1995 and 1999, seventeen-hundredths (0.17) pound per million British thermal units or the allowable emission rate, whichever is more stringent, multiplied by the heat input determined under subsection (c), rounded to the nearest whole NO_x allowance, stringent. as appropriate.**~~

Source	Unit	Allowances
Alcoa	1	1,089
	2	1,057
	3	1,026
American Electric Power	Auxiliary Boiler 1	2
	Auxiliary Boiler 2	1

BP Amoco - Boiler House 1	1	21
	2	21
	3	21
	4	21
	5	22
BP Amoco - Boiler House 3	1	252
	2	252
	3	252
	4	252
	5	252
Citizens Thermal Energy	11	120
	12	138
	13	85
	14	75
	15	54
	16	69
Ispat Inland	401	255
	402	255
	403	257
	404	257
	405	344
National Steel	1	0
New Energy	003	238
Portside Energy	Auxiliary Boiler 1	50
	Auxiliary Boiler 2	5
	Combustion Turbine	34
Purdue University	5	72

~~(4) If the initial total number of NO_x allowances allocated to all large affected units for an ozone control period under subdivision (3) does not equal the amount under subsection (a)(2), the department shall adjust the total number of NO_x allowances allocated to all NO_x budget units for the ozone control period under subdivision (3) so that the total number of NO_x allowances allocated equals the amount under subsection (a)(2). This adjustment shall be made by:~~

~~(A) multiplying each unit's allocation by the amount under subsection (a)(2); and~~

~~(B) dividing by the total number of NO_x allowances allocated under subdivision (3), and rounding to the nearest whole NO_x allowance as appropriate.~~

For units having an emission limitation only in tons on an annual basis, the allowable emission rate in pounds per million Btu (lb/mmBtu) shall be determined by dividing the emission limitation by eight thousand seven hundred sixty (8,760) hours, multiplying by two thousand (2,000) pounds and dividing the result by unit's permitted heat input rate. For units having an emission limitation only in part per million (ppm), the conversion factors under 326 IAC 3-4-3 shall be used.

(e) For new NO_x budget units that commenced operation, or are projected to commence operation, on or after May 1, 2000, or for projects that reduce NO_x emissions through the implementation of energy efficiency or renewable energy measures, or both, implemented during an ozone control period beginning May 1, 2004, the department shall allocate NO_x allowances in accordance with the following procedures:

(1) The department shall establish ~~one (1)~~ allocation ~~set-aside~~ set-asides for new NO_x budget units and ~~one (1) allocation set-aside~~ for energy efficiency and renewable energy projects for each ozone control period as follows:

(A) The new unit allocation ~~set-aside~~ set-asides shall be allocated NO_x allowances equal to the following:

(i) For EGUs, two thousand ~~four hundred nine~~ two hundred ninety-eight ~~(2,409)~~ (2,298) tons (five percent (5%) of EGU budget) in 2004~~, 2005, and 2006~~ through 2009, and ~~one thousand thirty (1,030)~~ nine hundred nineteen (919) tons (two percent (2%) of the EGU budget) thereafter.

(ii) For large affected units, eighty (80) tons (one percent (1%) of the large affected unit budget) in 2004 and each year thereafter.

(B) The energy efficiency and renewable energy allocation set-aside shall be allocated NO_x allowances equal to one thousand ~~one hundred forty-one~~ seventy-nine ~~(1,141)~~ (1,079) tons (two percent (2%) of overall trading budget).

(2) The NO_x authorized account representative of a new NO_x budget unit or a general account may submit to the department a request, in writing or in a format specified by the

department, for NO_x allowances as follows:

(A) For a new NO_x budget unit, for one (1) ozone control period under subsection (b), during which the NO_x budget unit commenced, or is projected to commence, operation. The NO_x authorized account representative shall reapply each year until the NO_x budget unit is eligible to use NO_x allowances allocated under subsection (d).

(B) For energy efficiency or renewable energy projects, project sponsors may request the reservation of NO_x allowances, for one (1) control period in which the project is implemented. The NO_x authorized account representative may reapply each year, not to exceed five (5) ozone control periods. Requests for allowances may be made only for projects implemented within two (2) years of the beginning of the first ozone control period for which allowances are requested. Projects must equal at least one (1) ton of NO_x emissions and multiple projects may be aggregated into one (1) allowance allocation request to equal one (1) or more tons of NO_x emissions.

The NO_x allowance allocation request must be submitted by ~~December~~ September 1 of the calendar year ~~prior to~~ that is one (1) year in advance of the first ozone control period for which the NO_x allowance allocation is requested and for new NO_x budget units, after the date on which the department issues a permit to construct the NO_x budget unit and ~~the engineering division,~~ final approval is granted from the Indiana utility regulatory commission ~~has received the required notification prior to unit startup~~.

(3) In a NO_x allowance allocation request under this subsection, the NO_x authorized account representative may request for an ozone control period, NO_x allowances in an amount that does not exceed the following:

(A) For an electricity generating unit, multiplying the following:

(i) Fifteen-hundredths (0.15) pound per million British thermal units or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent except that a coal-fired electrical generation unit with a rated energy efficiency of forty percent (40%) or higher, a natural gas-fired electrical generating unit with a rated energy efficiency of fifty percent (50%) or higher, or a combined heat and power unit with an overall rated energy efficiency of sixty percent (60%) or higher shall be allocated allowances based on 0.15 lb/mmBtu notwithstanding the allowable emission rate.

(ii) ~~multiplied by~~ The NO_x budget unit's maximum design heat input, in million British thermal units per hour~~; and~~ as follows:

(aa) For a unit that is permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is not a simple cycle system, seventy-five percent (75%) of the maximum design heat input.

(bb) For a unit that is not permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is a combined cycle

system, fifty percent (50%) of the maximum design heat input.

(cc) For a unit that is not permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is not combined cycle system or for a unit that is permitted as a major stationary source or major modification under 326 IAC 2-2 or 326 IAC 2-3 and that is a simple cycle system, twenty-five percent (25%) of the maximum design heat input.

(iii) ~~multiplied by~~ The number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate.

The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(B) For a large affected unit:

(i) seventeen-hundredths (0.17) pound per million British thermal units or the allowable emission rate as of the date that the unit becomes affected by this rule, whichever is more stringent;

(ii) multiplied by the NO_x budget unit's maximum design heat input, in million British thermal units per hour; and

(iii) multiplied by the number of hours remaining in the ozone control period starting with the first day in the ozone control period on which the unit operated or is projected to operate.

The NO_x allowances requested shall not exceed annual allowable NO_x emissions.

(C) For energy efficiency or renewable energy projects:

(i) Projects in section ~~2(17)(A)~~ 2(18)(A) and ~~2(17)(B)~~ 2(18)(B) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by end-users or non-utility third parties receive allowances based upon the number of kilowatt hours of electricity saved during an ozone ~~season~~ control period and the following formula:

$$\text{Allowances} = (\text{kWS} * 0.0015) / 2000$$

Where: Allowances = The number of allowances awarded to a project sponsor.

kWS = The number of kilowatt hours of electricity saved during an ozone ~~season~~ control period by the project.

(ii) Projects in section ~~2(17)(A)~~ 2(18)(A) and ~~2(17)(B)~~ 2(18)(B) of this rule that claim allowances based upon reductions in the consumption of electricity and that are sponsored by NOx allowance account holders that own or operate units that produce electricity and are subject to the emission limitations of this rule will be awarded allowances according to the following formula:

Allowances = (kWS * 0.000375) / 2000

Where: Allowances = The number of allowances awarded to a project sponsor.
kWS = The number of kilowatt hours of electricity saved during an ozone ~~season~~ control period by the project.

(iii) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are not NO_x budget units will be awarded allowances according to the following formula:

Allowances = (((Et1 / Pt1) - (Et2 / Pt2)) × Pt2 × NRate) / 2000

Where: Allowances = The number of allowances awarded to a project sponsor.
Et1 = Energy consumed per ozone ~~season~~control period prior to project implementation.
Pt1 = Units of product produced per ozone ~~season~~control period prior to project implementation.
Et2 = Energy consumed in the most recent ozone ~~season.~~control period.
Pt2 = Units of product produced in the most recent ozone ~~season.~~control period.
NRate = NO_x produced during the consumption of energy, measured in pounds per million (1,000,000) British thermal units.

(iv) Projects in section 2(18)(A) of this rule that claim allowances based upon reductions in the consumption of energy other than electricity and that are NO_x budget units will be awarded allowances according to the following formula:

Allowances = (((Et1 / Pt1) - (Et2 / Pt2)) × Pt2 × NRate × 0.25) / 2000

Where: Allowances = The number of allowances awarded to a project sponsor.
Et1 = Energy consumed per ozone ~~season~~control period prior to project implementation.
Pt1 = Units of product produced per ozone ~~season~~control period prior to project implementation.
Et2 = Energy consumed in the most recent ozone ~~season.~~control period.
Pt2 = Units of product produced in the most recent ozone ~~season.~~control period.

NRate = NO_x produced during the consumption of energy, measured in pounds per million (1,000,000) British thermal units.

Product produced, as used in these formulas in this item and item (iii), may include manufactured items; raw, intermediate, or final materials; or other products measured in discrete units and produced as a result of the consumption of energy in a specific process or piece of equipment. Claims for allowances must include documentation of NO_x emissions per British thermal unit both before and after implementation of the project for the energy-consuming process for which energy savings are claimed.

~~(iii)~~ (v) Projects in section ~~2(17)(C)~~ 2(18)(C) and 2(18)(D) of this rule receive allowances based upon the number of kilowatt hours of electricity each project generates during an ozone ~~season~~ control period and according to the following formula:

Allowances = (kWG * 0.0015) / 2000

Where: Allowances = The number of allowances awarded to a project sponsor.

kWG = The number of kilowatt hours of electricity generated during an ozone ~~season~~ control period by the project.

~~(iii)~~ (vi) Projects in section ~~2(17)(D)and 2(17)(E)~~ 2(18)(E) and ~~2(17)(E)~~ 2(18)(F) of this rule receive allowances based upon the difference in emitted NO_x per megawatt hour of operation for units before and after replacement or improvement and according to the following formula:

Allowances = ((Et1 - Et2) * h) * 0.25 / 2000

Where: Allowances = The number of allowances awarded to a project sponsor.

Et1 = The emission rate in pounds per megawatt hour of NO_x of the unit before improvement or replacement.

Et2 = The emission rate in pounds per megawatt hour of NO_x of the unit after improvement or replacement.

h = The number of megawatt hours ~~in~~ of operation during the ozone ~~season~~ control period.

Allowances will be awarded only after verification of project implementation and certification of energy, emission, or electricity savings, as appropriate. The department will consult the Indiana department of commerce concerning verification and certification.

(4) The department shall review, and allocate NO_x allowances pursuant to, each NO_x

allowance allocation request by December ~~1~~ 31 of each year as follows:

(A) Upon receipt of the NO_x allowance allocation request, the department shall determine whether, and shall make any necessary adjustments to the request to ensure that:

(i) for electricity generating units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(A);

(ii) for large affected units, the ozone control period and the number of allowances specified are consistent with the requirements of subdivision (3)(B); ~~and~~

(iii) for energy efficiency and renewable energy projects the number of allowances specified are consistent with the requirements of subdivision (3)(C); and

(iv) for units exempt under section 1(b), the department will determine the sum of the NO_x emission limitations (in tons of NO_x) on which the unit's exemption under section 1(b) is based.

(B) The department shall allocate allowances to all qualifying energy efficiency and renewable energy projects prior to allocating allowances to any new NO_x budget unit. The department shall give first priority to energy efficiency and renewable energy projects under sections ~~2(18)(A) through~~2(18)(A), 2(18)(C), and 2(18)(D), ~~then~~next section 2(18)(B), next section 2(18)(E), and finally section 2(18)(F) of this rule.

~~(B)~~ (C) If the ~~remaining~~ energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO_x allowances are requested has an amount of NO_x allowances greater than or equal to the number requested, as adjusted under clause (A), the department shall allocate the amount of the NO_x allowances requested, as adjusted under clause (A), to the ~~NO_x budget unit~~ energy efficiency and renewable energy projects. Any ~~unused~~ unallocated allowances shall be ~~added to the new source unit set-aside for distribution to new units~~ distributed as follows:

(i) Fifty percent (50%) of the unallocated allowances shall remain in the set-aside for use in the next year's allocation.

(ii) Fifty percent (50%) of the unallocated allowances shall be returned to existing large affected units on a pro rata basis.

~~(C)~~ (D) If the energy efficiency and renewable energy allocation set-aside for the ozone control period for which NO_x allowances are requested has an amount of NO_x allowances less than the number requested, as adjusted under item (A), the department shall allocate the ~~remaining~~ allocation set-aside ~~to the NO_x budget units~~ on a pro rata basis, except that allowances requested for projects under sections ~~2(18)(A) through~~2(18)(A), 2(18)(C), and 2(18)(D) shall be allocated first, allocated to projects under 2(18)(B) second, allocated to projects under 2(18)(E) ~~second~~third and allocated to projects under 2(18)(F) ~~third.~~fourth.

(E) If the new unit allocation set-aside for the ozone control period for which NO_x

allowances are requested, less the amount under subdivision (A)(iv), has an amount of NO_x allowances greater than or equal to the number requested, as adjusted under ~~item~~ clause (A), the department shall allocate the amount of the NO_x allowances requested, as adjusted under clause (A), to the NO_x budget unit. If the energy efficiency and renewable energy set-aside is oversubscribed in subdivision (D), the remaining allowances shall be transferred to the energy efficiency and renewable energy set-aside. If the energy efficiency and renewable energy set-aside is under subscribed in subdivision (C), the remaining allowances shall be transferred to existing sources on a pro rata basis.

(F) If the new unit allocation set-aside for the ozone control period for which NO_x allowances are requested, less the amount under subdivision (A)(iv), has an amount of NO_x allowances less than the number requested, as adjusted under clause (A), the department shall allocate the allocation set-aside to the NO_x budget units on a pro rata basis.

~~(D)~~ (G) After a new budget unit has operated in one (1) control period it becomes an existing budget unit, unless a notification has been received under subsection (i) requesting allocations under this subsection, and the department will allocate allowances for the control period ~~commencing three (3) years in the future~~ according to subsections (b) and (d). The unit will continue to receive allowances from the new unit set-aside according to subdivision (3) until it is eligible to use allowances allocated under subsection (d).

~~Within sixty (60) days of receipt of a NO_x allowance allocation request~~ By December 31 of each year, the department shall take appropriate action under subdivision (4) and notify the NO_x authorized account representative that submitted the request and the U.S. EPA of the number of NO_x allowances allocated for the ozone control period to the NO_x budget unit or energy efficiency or renewable energy projects.

(f) For a new NO_x budget unit that is allocated NO_x allowances under subsection (e) for an ozone control period, the U.S. EPA will deduct NO_x allowances under section 10(k)(1) or 10(k)(8) of this rule to account for the actual ~~utilization~~ emissions of the unit during the ozone control period. ~~The U.S. EPA will calculate the number of NO_x allowances to be deducted to account for the unit's actual utilization using the following formulas and rounding to the nearest whole NO_x allowance, as appropriate, provided that the number of NO_x allowances to be deducted shall be zero (0) if the number calculated is less than zero (0):~~

~~(1) NO_x allowances deducted for actual utilization for electricity generating units = (Unit's NO_x allowances allocated for ozone control period) - (Unit's actual ozone control period utilization × fifteen-hundredths (0.15) pound per million British thermal units or the allowable emission rate, whichever is more stringent).~~

~~(2) NO_x allowances deducted for actual utilization for large affected units = (Unit's NO_x allowances allocated for ozone control period) - (Unit's actual ozone control period utilization × seventeen-hundredths (0.17) pound per million British thermal units or the allowable emission rate, whichever is more stringent) where:~~

~~(A) Unit's NO_x allowances allocated for ozone control period = The number of NO_x allowances allocated to the unit for the ozone control period under subsection (e)(4); and~~

~~(B) Unit's actual ozone control period utilization = The utilization, in million British thermal units, as defined in section 2 of this rule, of the unit during the ozone control period.~~

~~(3)~~ **Any allowances remaining in the account shall be returned to the new source unit set-aside.**

(g) After making the deductions for compliance under section 10(k)(1) or 10(k)(8) of this rule for an ozone control period, the U.S. EPA will notify the department whether any NO_x allowances remain in the allocation set-asides for the ozone control period. Any NO_x allowances ~~not distributed from~~ remaining in the new unit allocation set-asides shall ~~be returned to~~ remain in the new unit allocation set-aside for use in the next year's allocation.

(h) If the number of banked allowances in the new unit set-asides or the energy efficiency set-aside is greater than the following amounts:

(1) For the EGU new unit set-aside, three thousand three hundred and seventy-seven (3,377) tons in 2004 through 2009 and one thousand nine hundred ninety-eight (1,998) tons each year thereafter.

(2) For the large affected unit set-aside, one thousand one hundred fifty-nine (1,159) tons in 2004 and each year thereafter.

(3) For energy efficiency and renewable energy set-aside, two thousand one hundred and fifty-eight (2,158) tons in 2004 and each year thereafter.

Any banked allowances in excess of the values in subsections (e)(1)(A) or (e)(1)(B) shall be allocated to the relevant existing NO_x budget units on a pro rata basis. The allowances from the energy efficiency and renewable energy set-aside shall be allocated to existing large affected units.

(i) A new ~~NO_x budget unit~~EGU that commenced operation on or after May 1, 2000 has the option to remain in the new unit set-aside and have allowances allocated in accordance with

subsection (e) until such time that it has at least two (2) years, but not more than five (5) years of operating data for the purpose of determining heat input under subsection (c). The new NO_x budget unit shall submit a notification to the department by no later than December 1 of the year prior to the allocation schedule in subsection (b), indicating the unit is to receive NO_x allowances is accordance with subsection (e).

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-9)*

326 IAC 10-4-10 NO_x allowance tracking system
Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11
Affected: IC 13-15; IC 13-17

Sec. 10. (a) The U.S. EPA will establish compliance and overdraft accounts consistent with subsection (c). NO_x allowances shall be recorded in the compliance accounts or overdraft accounts according to the following:
(1) Allocations of NO_x allowances pursuant to section 9 or 13(i) of this rule.
(2) Deductions or transfers of NO_x allowances pursuant to one (1) of the following:
(A) Section 8(d), 8(e), 11, 13, or 14 of this rule.
(B) Subsection (j), (k), or (m).

(b) The U.S. EPA will establish, upon request, a general account for any person consistent with subsection (d). Transfers of allowances pursuant to section 11 of this rule shall be recorded in the general account in accordance with this section.

(c) Upon receipt of a complete account certificate of representation under section 6(h) of this rule, the U.S. EPA will establish the following:
(1) A compliance account for each NO_x budget unit for which the account certificate of representation was submitted.
(2) An overdraft account for each source for which the account certificate of representation was submitted and that has two (2) or more NO_x budget units.

(d) Any person may apply to open a general account for the purpose of holding and transferring allowances. The establishment of a general account shall be subject to the

following:

(1) A complete application for a general account shall be submitted to the U.S. EPA and shall include the following elements in a format prescribed by the U.S. EPA:

(A) The following information concerning the NO_x authorized account representative and any alternate NO_x authorized account representative:

(i) Name.

(ii) Mailing address.

(iii) E-mail address, if any.

(iv) Telephone number.

(v) Facsimile transmission number, if any.

(B) At the option of the NO_x authorized account representative, organization name, and type of organization.

(C) A list of all persons subject to a binding agreement for the NO_x authorized account representative or any alternate NO_x authorized account representative to represent their ownership interest with respect to the allowances held in the general account.

(D) The following certification statement by the NO_x authorized account representative and any alternate NO_x authorized account representative: "I certify that I was selected as the NO_x authorized account representative or the NO_x alternate authorized account representative, as applicable, by an agreement that is binding on all persons who have an ownership interest with respect to allowances held in the general account. I certify that I have all the necessary authority to carry out my duties and responsibilities under the NO_x budget trading program on behalf of persons and that each person shall be fully bound by my representations, actions, inactions, or submissions and by any order or decision issued to me by the U.S. EPA or a court regarding the general account.".

(E) The signature of the NO_x authorized account representative and any alternate NO_x authorized account representative and the dates signed.

(F) Unless otherwise required by the department or the U.S. EPA, documents of agreement referred to in the account certificate of representation shall not be submitted to the department or the U.S. EPA. Neither the department nor the U.S. EPA will be under any obligation to review or evaluate the sufficiency of the documents, if submitted.

(2) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), the following shall apply:

(A) The U.S. EPA will establish a general account for the person or persons for whom the application is submitted.

(B) The NO_x authorized account representative and any alternate NO_x authorized account representative for the general account shall represent and, by his or her representations, actions, inactions, or submissions, legally bind each person who has an ownership interest with respect to NO_x allowances held in the general account in all

matters pertaining to the NO_x budget trading program, notwithstanding any agreement between the NO_x authorized account representative or any alternate NO_x authorized account representative and the person. Any person having an ownership interest with respect to NO_x allowances shall be bound by any order or decision issued to the NO_x authorized account representative or any alternate NO_x authorized account representative by the U.S. EPA or a court regarding the general account.

(C) Each submission concerning the general account shall be submitted, signed, and certified by the NO_x authorized account representative or any alternate NO_x authorized account representative for the persons having an ownership interest with respect to NO_x allowances held in the general account. Each submission shall include the following certification statement by the NO_x authorized account representative or any alternate NO_x authorized account representative: "I am authorized to make this submission on behalf of the persons having an ownership interest with respect to the NO_x allowances held in the general account. I certify under penalty of law that I have personally examined, and am familiar with, the statements and information submitted in this document and all its attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are to the best of my knowledge and belief true, accurate, and complete. I am aware that there are significant penalties for submitting false statements and information or omitting required statements and information, including the possibility of fine or imprisonment.".

(D) The U.S. EPA will accept or act on a submission concerning the general account only if the submission has been made, signed, and certified in accordance with clause (C).

(3) The following shall apply to the designation of a NO_x authorized account representative, alternate NO_x authorized account representative, or persons having an ownership interest with respect to NO_x allowances in the general account:

(A) An application for a general account may designate the following:

(i) One (1) and only one (1) NO_x authorized account representative.

(ii) One (1) and only one (1) alternate NO_x authorized account representative who may act on behalf of the NO_x authorized account representative.

The agreement by which the alternate NO_x authorized account representative is selected shall include a procedure for authorizing the alternate NO_x authorized account representative to act in lieu of the NO_x authorized account representative.

(B) Upon receipt by the U.S. EPA of a complete application for a general account under subdivision (1), any representation, action, inaction, or submission by any alternate NO_x authorized account representative shall be deemed to be a representation, action, inaction, or submission by the NO_x authorized account representative.

(C) The NO_x authorized account representative for a general account may be changed at

any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(D) The alternate NO_x authorized account representative for a general account may be changed at any time upon receipt by the U.S. EPA of a superseding complete application for a general account under subdivision (1). Notwithstanding the change, all representations, actions, inactions, and submissions by the previous alternate NO_x authorized account representative prior to the time and date when the U.S. EPA receives the superseding application for a general account shall be binding on the new alternate NO_x authorized account representative and the persons with an ownership interest with respect to the allowances in the general account.

(E) In the event a new person having an ownership interest with respect to NO_x allowances in the general account is not included in the list of persons having an ownership interest with respect to the NO_x allowances in the account certificate of representation, the new person shall be deemed to be subject to and bound by the account certificate of representation, the representation, actions, inactions, and submissions of the NO_x authorized account representative and any alternate NO_x authorized account representative of the source or unit, and the decisions, orders, actions, and inactions of the U.S. EPA, as if the new person were included in the list.

(F) Within thirty (30) days following any change in the persons having an ownership interest with respect to NO_x allowances in the general account, including the addition of persons, the NO_x authorized account representative or any alternate NO_x authorized account representative shall submit a revision to the application for a general account amending the list of persons having an ownership interest with respect to the NO_x allowances in the general account to include the change.

(4) Once a complete application for a general account under subdivision (1) has been submitted and received, the U.S. EPA will rely on the application unless and until a superseding complete application for a general account under subdivision (1) is received by the U.S. EPA.

(5) Except as provided in subdivision (3)(C) through (3)(F), no objection or other communication submitted to the U.S. EPA concerning the authorization, or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account shall affect any representation, action, inaction, or submission of the NO_x

authorized account representative or any alternate NO_x authorized account representative or the finality of any decision or order by the U.S. EPA under the NO_x budget trading program.

(6) The U.S. EPA will not adjudicate any private legal dispute concerning the authorization or any representation, action, inaction, or submission of the NO_x authorized account representative or any alternate NO_x authorized account representative for a general account, including private legal disputes concerning the proceeds of NO_x allowance transfers.

(e) The U.S. EPA will assign a unique identifying number to each account established under subsection (c) or (d).

(f) Following the establishment of a NO_x allowance tracking system account, all submissions to the U.S. EPA pertaining to the account, including, but not limited to, submissions concerning the deduction or transfer of NO_x allowances in the account, shall be made only by the NO_x authorized account representative for the account. The U.S. EPA will assign a unique identifying number to each NO_x authorized account representative.

(g) The U.S. EPA will record the NO_x allowances for 2004 in the NO_x budget units' compliance accounts and the allocation set-asides, as allocated under section 9 of this rule. The U.S. EPA will also record the NO_x allowances allocated under section 13(i)(1) of this rule for each NO_x budget opt-in source in its compliance account.

(h) Each year, after the U.S. EPA has made all deductions from a NO_x budget unit's compliance account and the overdraft account pursuant to subsection (k), the U.S. EPA will record NO_x allowances, as allocated to the unit under section 9 or 13(i)(2) of this rule, in the compliance account for the year after the last year for which allowances were previously allocated to the compliance account. Each year, the U.S. EPA will also record NO_x allowances, as allocated under section 9 of this rule, in the allocation set-aside for the year after the last year for which allowances were previously allocated to an allocation set-aside.

(i) When allocating NO_x allowances to and recording them in an account, the U.S. EPA will assign each NO_x allowance a unique identification number that shall include digits identifying the year for which the NO_x allowance is allocated.

(j) The NO_x allowances are available to be deducted for compliance with a unit's NO_x budget emissions limitation for an ozone control period in a given year only if the NO_x allowances:

(1) were allocated for an ozone control period in a prior year or the same year; and

(2) are held in the unit's compliance account, or the overdraft account of the source where the unit is located, as of the NO_x allowance transfer deadline for that ozone control period or are transferred into the compliance account or overdraft account by a NO_x allowance transfer correctly submitted for recordation under section 11(a) of this rule by the NO_x allowance transfer deadline for that ozone control period.

(k) The following shall apply to deductions for purposes of compliance with a unit's allocations:

(1) Following the recordation, in accordance with section 11(b) or 11(c) of this rule, of NO_x allowance transfers submitted for recordation in the unit's compliance account or the overdraft account of the source where the unit is located by the NO_x allowance transfer deadline for an ozone control period, the U.S. EPA will deduct NO_x allowances available under subsection (j) to cover the unit's NO_x emissions, as determined in accordance with 40 CFR 75, Subpart H*~~, or to account for actual utilization under section 9(e) of this rule, for the ozone control period~~:

(A) from the compliance account; and

(B) only if no more NO_x allowances available under subsection (j) remain in the compliance account, from the overdraft account.

In deducting allowances for units at the source from the overdraft account, the U.S. EPA will begin with the unit having the compliance account with the lowest NO_x allowance tracking system account number and end with the unit having the compliance account with the highest NO_x allowance tracking system account number, with account numbers sorted beginning with the left-most character and ending with the right-most character and the letter characters assigned values in alphabetical order and less than all numeric characters.

(2) The U.S. EPA will deduct NO_x allowances first under subdivision (1)(A) and then under subdivision (1)(B) until:

(A) the number of NO_x allowances deducted for the ozone control period equals the number of tons of NO_x emissions, determined in accordance with 40 CFR 75, Subpart H*, from the unit for the ozone control period for which compliance is being determined~~, plus the number of NO_x allowances required for deduction to account for actual utilization under section 9(e) of this rule for the ozone control period~~; or

(B) no more NO_x allowances available under subsection (j) remain in the respective account.

(3) The NO_x authorized account representative for each compliance account may identify by serial number the NO_x allowances to be deducted from the unit's compliance account under this section. The identification shall be made in the compliance certification report submitted in accordance with section 8(a) through 8(c) of this rule.

(4) The U.S. EPA will deduct NO_x allowances for an ozone control period from the compliance account, in the absence of an identification or in the case of a partial identification of NO_x allowances by serial number under subdivision (3), or the overdraft account on a first-in, first-out (FIFO) accounting basis in the following order:

(A) Those NO_x allowances that were allocated for the ozone control period to the unit under section 9 or 13 of this rule.

(B) Those NO_x allowances that were allocated for the ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

(C) Those NO_x allowances that were allocated for a prior ozone control period to the unit under section 9 or 13 of this rule.

(D) Those NO_x allowances that were allocated for a prior ozone control period to any unit and transferred and recorded in the account pursuant to section 11 of this rule, in order of their date of recordation.

(5) After making the deductions for compliance under subdivisions (1) and (2), the U.S. EPA will deduct from the unit's compliance account or the overdraft account of the source where the unit is located a number of NO_x allowances, allocated for an ozone control period after the ozone control period in which the unit has excess emissions, equal to three (3) times the number of the unit's excess emissions.

(6) If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(7) Any allowance deduction required under subdivision (5) shall not affect the liability of the owners and operators of the NO_x budget unit for any fine, penalty, or assessment, or their obligation to comply with any other remedy, for the same violation, as ordered under the CAA or applicable state law. The following guidelines shall be followed in assessing fines, penalties, or other obligations:

(A) For purposes of determining the number of days of violation, if a NO_x budget unit has excess emissions for an ozone control period, each day in the ozone control period, one hundred fifty-three (153) days, constitutes a day in violation unless the owners and operators of the unit demonstrate that a lesser number of days should be considered.

(B) Each ton of excess emissions is a separate violation.

(8) In the case of units sharing a common stack and having emissions that are not separately monitored or apportioned in accordance with 40 CFR 75, Subpart H*, the following shall apply:

(A) The NO_x authorized account representative of the units may identify the percentage of NO_x allowances to be deducted from each unit's compliance account to cover the

unit's share of NO_x emissions from the common stack for an ozone control period. The identification shall be made in the compliance certification report submitted in accordance with section 8(a) through 8(c) of this rule.

(B) Notwithstanding subdivision (2)(A), the U.S. EPA will deduct NO_x allowances for each unit, in accordance with subdivision (1), until the number of NO_x allowances deducted equals either of the following:

(i) The unit's identified percentage of the number of tons of NO_x emissions, as determined in accordance with 40 CFR 75, Subpart H*, from the common stack for the ozone control period for which compliance is being determined.

(ii) If no percentage is identified, an equal percentage for each unit~~, plus the number of allowances required for deduction to account for actual utilization under section 9(e) of this rule for the ozone control period~~.

(9) The U.S. EPA will record in the appropriate compliance account or overdraft account all deductions from an account pursuant to this section.

(l) The U.S. EPA may at its own discretion and on its own motion correct any error in any NO_x allowance tracking system account. Within ten (10) business days of making the correction, the U.S. EPA will notify the NO_x authorized account representative for the account.

(m) The NO_x authorized account representative of a general account may instruct the U.S. EPA to close the account by submitting a statement requesting deletion of the account from the NO_x allowance tracking system and by correctly submitting for recordation under section 11(a) of this rule, an allowance transfer of all NO_x allowances in the account to one (1) or more other NO_x allowance tracking system accounts.

(n) If a general account shows no activity for a period of one (1) year or more and does not contain any NO_x allowances, the U.S. EPA may notify the NO_x authorized account representative for the account that the account shall be closed and deleted from the NO_x allowance tracking system following twenty (20) business days after the notice is sent. The account shall be closed after the twenty (20) business day period unless before the end of the twenty (20) business day period the U.S. EPA receives a correctly submitted transfer of NO_x allowances into the account under section 11(a) of this rule or a statement submitted by the NO_x authorized account representative demonstrating to the satisfaction of the U.S. EPA good cause as to why the account should not be closed.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government**

Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-10)*

326 IAC 10-4-11 NO_x allowance transfers

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 11. (a) The NO_x authorized account representatives seeking recordation of a NO_x allowance transfer shall submit the transfer to the U.S. EPA. To be considered correctly submitted, the NO_x allowance transfer shall include the following elements in a format specified by the U.S. EPA:

(1) The numbers identifying both the transferor and transferee accounts.

(2) A specification by serial number of each NO_x allowance to be transferred.

(3) The printed name and signature of the NO_x authorized account representative of the transferor account and the date signed.

(b) Within five (5) business days of receiving a NO_x allowance transfer, the U.S. EPA will record a NO_x allowance transfer by moving each NO_x allowance from the transferor account to the transferee account as specified by the request, provided the following:

(1) The transfer is correctly submitted under subsection (a).

(2) The transferor account includes each NO_x allowance identified by serial number in the transfer.

(3) The transfer meets all other requirements of this section.

A NO_x allowance transfer that is submitted for recordation following the NO_x allowance transfer deadline and that includes any NO_x allowances allocated for an ozone control period prior to, or the same as, the ozone control period to which the NO_x allowance transfer deadline applies shall not be recorded until after completion of the process of recordation of NO_x allowance allocations in section 10(h) of this rule.

(c) Where a NO_x allowance transfer submitted for recordation fails to meet the requirements of subsection (b), the U.S. EPA will not record the transfer.

(d) The following notification requirements shall apply to NO_x allowance transfers:

(1) Within five (5) business days of recordation of a NO_x allowance transfer under subsection (b), the U.S. EPA will notify each party to the transfer. Notice shall be given to the NO_x authorized account representatives of both the transferor and transferee accounts.

(2) Within ten (10) business days of receipt of a NO_x allowance transfer that fails to meet the requirements of subsection (b), the U.S. EPA will notify the NO_x authorized account representatives of both the transferor and transferee accounts subject to the transfer of the following:

(A) A decision not to record the transfer.

(B) The reasons for nonrecordation.

(e) Nothing in this section shall preclude the submission of a NO_x allowance transfer for recordation following notification of nonrecordation. *(Air Pollution Control Board; 326 IAC 10-4-11)*

326 IAC 10-4-12 NO_x monitoring and reporting requirements

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 12. (a) The owners and operators, and to the extent applicable, the NO_x authorized account representative of a NO_x budget unit, shall comply with the monitoring and reporting requirements as provided in this rule and in 40 CFR 75, Subpart H*. For purposes of complying with the requirements, the definitions in section 2 of this rule and 40 CFR 72.2* shall apply, and the terms affected unit, designated representative, and continuous emission monitoring system (CEMS) in 40 CFR 75* shall be replaced by the terms NO_x budget unit, NO_x authorized account representative, and continuous emission monitoring system (CEMS), respectively, as defined in section 2 of this rule.

(b) The owner or operator of each NO_x budget unit and a unit for which an application for a NO_x Budget opt-in permit is submitted and not denied or withdrawn, as provided in section 13 of this rule must meet the following requirements:

(1) Install all monitoring systems required under this subpart for monitoring NO_x mass. This includes all systems required to monitor NO_x emission rate, NO_x concentration, heat input rate, and stack flow rate, in accordance with 40 CFR 75.71* and 40 CFR 75.72*.

(2) Install all monitoring systems for monitoring heat input, if required under subsection (q) for developing NO_x allowance allocations.

(3) Successfully complete all certification tests required under subsections (e) through (k) and meet all other provisions of this section and 40 CFR 75* applicable to the monitoring systems under subdivisions (1) and (2).

(4) Record ~~and~~, report, and ~~quality-assure~~ quality assure the data from the monitoring systems under subdivisions (1) and (2).

(c) The owner or operator must meet the requirements of subsection (b)(1) through (b)(3) on or before the following dates and must record ~~and~~, report, and ~~quality-assure~~ quality assure the data from the monitoring systems on and after the following dates:

(1) NO_x budget units for which the owner or operator intends to apply for early reduction credits under section 15(c) of this rule must comply with the requirements of this section by May 1 of the year prior to the year in which early reduction credits will be generated.

(2) Except for NO_x budget units under subdivision (1), NO_x budget units that commence operation before January 1, 2003, must comply with the requirements of this section by May ~~31, 2004~~ 1, 2003.

(3) NO_x budget units that commence operation on or after January 1, 2003, and that report on an annual basis under subsection (o)(4) must comply with the requirements of this section by the later of the following dates:

(A) May ~~31, 2004~~ 1, 2003.

(B) The earlier of:

(i) one hundred eighty (180) days after the date on which the unit commences operation; or

(ii) for electricity generating units, ninety (90) days after the date that the unit commences commercial operation.

(4) NO_x budget units that commence operation on or after January 1, 2003, and that report on a control season basis under subsection (o)(4) must comply with the requirements of this section by the later of the following dates:

(A) The earlier of:

(i) one hundred eighty (180) days after the date on which the unit commences operation; or

(ii) for electricity generating units, ninety (90) days after the date on which the unit commences commercial operation.

(B) If the applicable deadline under clause (A) does not occur during an ozone control period, May 1 immediately following the date determined in accordance with clause (A).

(5) For a NO_x budget unit with a new stack or flue for which construction is completed after the applicable deadline under subdivision (1), (2), or (3) or section 13 of this rule, compliance by the later of the following dates:

(A) Ninety (90) days after the date that emissions first exit to the atmosphere through the new stack or flue.

(B) If the unit reports on a control season basis under subsection (o)(4) and the applicable deadline under clause (A) does not occur during the ozone control period, May 1 immediately following the applicable deadline in clause (A).

(6) For a unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, the compliance dates specified under section 13 of this rule.

(d) The owner or operator of a NO_x budget unit that misses the certification deadline under subsection (c)(1):

(1) is not eligible to apply for early reduction credits under section 15 of this rule; and

(2) becomes subject to the certification deadline under subsection (c)(2).

(e) The owner or operator of a NO_x budget under subsection (c)(3) or (c)(4) must determine, record, and report NO_x mass, heat input rate, if required for purposes of allocations, and any other values required to determine NO_x mass, for example, NO_x emission rate and heat input rate or NO_x concentration and stack flow, using the provisions of 40 CFR 75.70(g)*, from the date and hour that the unit starts operating until ~~all required certification tests are successfully completed~~ the date and hour that the continuous emission monitoring system, excepted monitoring system under 40 CFR 75, Appendix D* or E*, or excepted monitoring methodology under 40 CFR 75.19* is provisionally certified.

(f) The following shall apply to any monitoring system, alternative monitoring system, alternative reference method, or any other alternative for a CEMS required under this rule:

(1) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall use any alternative monitoring system, alternative reference method, or any other alternative for the required continuous emission monitoring system without having obtained prior written approval in accordance with subsection (p).

(2) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall operate the unit so as to discharge, or allow to be discharged, NO_x emissions to the atmosphere without accounting for all the emissions in accordance with the applicable provisions of this rule and 40 CFR 75*, except as provided for in 40 CFR 75.74*.

(3) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall disrupt the CEMS, any portion thereof, or any other approved emission monitoring method, and thereby avoid monitoring and recording NO_x mass emissions discharged into the atmosphere, except for periods of recertification or periods when calibration, quality assurance testing, or maintenance is performed in accordance with the applicable provisions of this rule and 40 CFR 75* except as provided for in 40 CFR 75.74*.

(4) No owner or operator of a NO_x budget unit or a non-NO_x budget unit monitored under 40 CFR 75.72(b)(2)(ii)* shall retire or permanently discontinue use of the CEMS, any component thereof, or any other approved emission monitoring system under this section, except under one (1) of the following circumstances:

(A) During the period that the unit is covered by a retired unit exemption under section 3

of this rule.

(B) The owner or operator is monitoring emissions from the unit with another certified monitoring system approved, in accordance with the applicable provisions of this rule and 40 CFR 75*, by the department for use at that unit that provides emission data for the same pollutant or parameter as the retired or discontinued monitoring system.

(C) The NO_x authorized account representative submits notification of the date of certification testing of a replacement monitoring system in accordance with subsection (h)(2).

(g) The owner or operator of a NO_x budget unit that is subject to an acid rain emissions limitation shall comply with the initial certification and recertification procedures of 40 CFR 75*, except the following:

(1) If, prior to January 1, 1998, the U.S. EPA approved a petition under 40 CFR 75.17(a)* or 40 CFR 75.17(b)* for apportioning the NO_x emission rate measured in a common stack or a petition under 40 CFR 75.66* for an alternative to a requirement in 40 CFR 75.17*, the NO_x authorized account representative shall resubmit the petition to the U.S. EPA under subsection (p)(1) to determine if the approval applies under the NO_x budget trading program.

(2) For any additional CEMS required under the common stack provisions in 40 CFR 75.72*, or for any NO_x concentration CEMS used under the provisions of 40 CFR 75.71(a)(2)*, the owner or operator shall meet the requirements of subsection (h).

(h) The owner or operator of a NO_x budget unit that is not subject to an acid rain emissions limitation shall comply with the following initial certification and recertification procedures, except that the owner or operator of a unit that qualifies to use the low mass emissions excepted monitoring methodology under 40 CFR 75.19* shall also meet the requirements of subsection ~~(i)~~ (j) and the owner or operator of a unit that qualifies to use an alternative monitoring system under 40 CFR 75, Subpart E* shall also meet the requirements of subsection ~~(j)~~ (k). The owner or operator of a NO_x budget unit that is subject to an acid rain emissions limitation, but requires additional CEMS under the common stack provisions in 40 CFR 75.72*, or that uses a NO_x concentration CEMS under 40 CFR 75.71(a)(2)* also shall comply with the following initial certification and recertification procedures:

(1) The owner or operator shall ensure that each monitoring system required by 40 CFR 75, Subpart H*, that includes the automated data acquisition and handling system, successfully completes all of the initial certification testing required under 40 CFR 75.20*. The owner or operator shall ensure that all applicable certification tests are successfully completed by the deadlines specified in subsection (c). In addition, whenever the owner or operator installs a monitoring system in order to meet the requirements of this section in a location

where no monitoring system was previously installed, initial certification according to 40 CFR 75.20* is required.

(2) Whenever the owner or operator makes a replacement, modification, or change in a certified CEMS that ~~the U.S. EPA or the department determines~~ may significantly ~~affects~~ affect the ability of the system to accurately measure or record NO_x mass emissions or heat input or to meet the requirements of 40 CFR 75.21* or 40 CFR 75, Appendix B*, the owner or operator shall recertify the monitoring system according to 40 CFR 75.20(b)*. Furthermore, whenever the owner or operator makes a replacement, modification, or change to the flue gas handling system or the unit's operation that ~~the U.S. EPA or the department determines to~~ may significantly change the flow or concentration profile, the owner or operator shall recertify the CEMS according to 40 CFR 75.20(b)*. Examples of changes that require recertification include replacement of the analyzer, change in location or orientation of the sampling probe or site, or changing of flow rate monitor polynomial coefficients.

(3) Requirements for the certification approval process for initial certifications and recertification are as follows:

(A) The NO_x authorized account representative shall submit to the appropriate U.S. EPA regional office and the department a written notice of the dates of certification in accordance with subsection (n).

(B) The NO_x authorized account representative shall submit to the department a certification application for each CEMS required under 40 CFR 75, Subpart H*. A complete certification application shall include the information specified in 40 CFR 75, Subpart H*.

(C) Except for units using the low mass emission excepted methodology under 40 CFR 75.19*, the provisional certification date for a monitor shall be determined using the procedures set forth in 40 CFR 75.20(a)(3)*. A provisionally certified monitor may be used under the NO_x budget trading program for a period of time not to exceed one hundred twenty (120) days after receipt by the department of the complete certification application for the CEMS or associated component thereof under clause (B). Data measured and recorded by the provisionally certified CEMS or associated component thereof, in accordance with the requirements of 40 CFR 75*, shall be considered valid ~~quality-assured~~quality assured data, retroactive to the date and time of provisional certification, provided that the department does not invalidate the provisional certification by issuing a notice of disapproval within one hundred twenty (120) days of receipt of the complete certification application by the department.

(D) The department shall issue a written notice of approval or disapproval of the certification application to the owner or operator within one hundred twenty (120) days of receipt of the complete certification application under clause (B). In the event the

department does not issue a notice within the one hundred twenty (120) day period, each CEMS that meets the applicable performance requirements of 40 CFR 75* and is included in the certification application shall be deemed certified for use under the NO_x budget trading program. The issuance of notices shall be as follows:

(i) If the certification application is complete and shows that each monitoring system meets the applicable performance requirements of 40 CFR 75*, then the department shall issue a written notice of approval of the certification application within one hundred twenty (120) days of receipt.

(ii) A certification application shall be considered complete when all of the applicable information required to be submitted under clause (B) has been received by the department. If the certification application is not complete, then the department shall issue a written notice of incompleteness that sets a reasonable date by which the NO_x authorized account representative must submit the additional information required to complete the certification application. If the NO_x authorized account representative does not comply with the notice of incompleteness by the specified date, then the department may issue a notice of disapproval under item (iii).

(iii) If the certification application shows that any CEMS or associated component thereof does not meet the performance requirements of this rule, or if the certification application is incomplete and the requirement for disapproval under item (ii) has been met, the department shall issue a written notice of disapproval of the certification application. Upon issuance of the notice of disapproval, the provisional certification is invalidated by the department and the data measured and recorded by each uncertified CEMS or associated component thereof shall not be considered valid quality-assured data beginning with the date and hour of provisional certification. The owner or operator shall follow the procedures for loss of certification in subsection (i) for each CEMS or associated component thereof which is disapproved for initial certification.

(iv) The department may issue a notice of disapproval of the certification status of a monitor in accordance with subsection (m).

(i) If the department issues a notice of disapproval of a certification application under subsection (h)(3)(D)(iii) or a notice of disapproval of certification status under subsection (h)(3)(D)(iv), then the following shall apply:

(1) The owner or operator shall substitute the following values, for each hour of unit operation during the period of invalid data ~~beginning with the date and hour of provisional certification~~ specified in 40 CFR ~~75.20(a)(4)(iii), 40 CFR 75.20(b)(5), 40 CFR 75.20(h)(4),~~75.20(a)(4)(iii)*, 40 CFR 75.20(b)(5)*, 40 CFR 75.20(h)(4)*, or 40 CFR 75.21(e)* and continuing until the ~~time~~, date~~,~~ and hour specified under 40 CFR

75.20(a)(5)(i)*:

(A) For units that the owner or operator is monitoring or intending to monitor for NO_x emission rate and heat input rate or ~~for units~~ intends to use or is using the low mass emission excepted methodology under 40 CFR 75.19*:

(i) the maximum potential NO_x emission rate; and

(ii) the maximum potential hourly heat input of the unit.

(B) For units monitoring or intending to monitor for NO_x mass emissions using a NO_x pollutant concentration monitor and a flow monitor:

(i) the maximum potential concentration of NO_x; and

(ii) the maximum potential flow rate of the unit under 40 CFR 75, Appendix A, Section ~~2.1~~ 2*.

(2) The NO_x authorized account representative shall submit a notification of certification retest dates and a new certification application in accordance with subsection (h)(3)(A) and (h)(3)(C).

(3) The owner or operator shall repeat all certification tests or other requirements that were failed by the monitoring system, as indicated in the department's notice of disapproval, no later than thirty (30) unit operating days after the date of issuance of the notice of disapproval.

(j) The owner or operator of a gas-fired or oil-fired unit using the low mass emissions excepted methodology under 40 CFR 75.19* and not subject to an acid rain program emissions limitation under 40 CFR 72* shall meet the applicable general operating requirements of 40 CFR 75.10*, the applicable requirements of 40 CFR 75.19*, and the applicable certification requirements of subsections ~~(e) through~~ (h) and (i) ~~and (k)~~, except that the excepted methodology shall be deemed provisionally certified for use under the NO_x budget trading program, as of the following dates:

(1) ~~For units that are reporting on an annual basis under subsection (o)(4) that commenced operation:~~

~~(A) before its compliance deadline under subsection (c), from January 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19* until the completion of the period for department review; or~~

~~(B) after its compliance deadline under subsection (c), the date of submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19* until the completion of the period for department review.~~ For a unit that does not have monitoring equipment initially certified or recertified as of the date on which the NO_X authorized account representative submits the certification application under 40 CFR 75.19* for the unit, starting on the date of

such submission until the completion of the period for the department's review.

(2) ~~For units that are reporting on an ozone control period basis under subsection (o)(4)(B)(ii) that:~~

~~(A) commenced operation before its compliance deadline under subsection (c) where the certification application is submitted:~~

~~(i) before May 1, from May 1 of the year of the submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19* until the completion of the period for the department's review; or~~

~~(ii) after May 1, from May 1 of the year following submission of the certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19* until the completion of the period for the department's review;~~

~~(B) commences operation after its compliance deadline under subsection (c), where the unit commences operation before May 1, from May 1 of the year that the unit commenced operation, until the completion of the period for the department's review; or~~

~~(C) has not operated after its compliance deadline under subsection (c), where the certification application is submitted after May 1, but before October 1, from the date of submission of a certification application for approval to use the low mass emissions excepted methodology under 40 CFR 75.19* until the completion of the period for the department's review.~~ For a unit that has monitoring equipment initially certified or recertified as of the date on which the NO_X authorized account representative submits the certification application under 40 CFR 75.19*~~of this chapter~~ for the unit and that reports data on an annual basis under 40 CFR 97.74(d)*, starting January 1 of the year after the year of the certification application submission until the completion of the period for the department's review.

(3) For a unit that has monitoring equipment initially certified or recertified as of the date on which the NO_X authorized account representative submits the certification application under 40 CFR 75.19* for the unit and that reports on a control season basis under 40 CFR 97.74(d)*, starting May 1 of the ozone control period after the year of such submission until the completion of the period for the department's review.

(k) The NO_x authorized account representative representing the owner or operator of each unit applying to monitor using an alternative monitoring system approved by the U.S. EPA and, if applicable, the department under 40 CFR 75, Subpart E* shall apply to the department for certification prior to use of the system under the NO_x trading program. The NO_x authorized account representative shall apply for recertification following a replacement, modification, or change according to the procedures in subsection (h). The owner or operator of an alternative monitoring system shall comply with the notification and application requirements for certification according to the procedures specified in subsection (h)(3) and 40

CFR 75.20(f)*.

(l) Whenever any monitoring system fails to meet the quality assurance requirements of 40 CFR 75~~, Appendix B~~*, data shall be substituted using the applicable procedures in:

(1) 40 CFR 75, Subpart D*;

(2) 40 CFR 75, Appendix D*; or

(3) 40 CFR 75, Appendix E*.

(m) Whenever both an audit of a monitoring system and a review of the initial certification or recertification application reveal that any system or associated component should not have been certified or recertified because it did not meet a particular performance specification or other requirement under subsections (e) through (k) or the applicable provisions of 40 CFR 75*, both at the time of the initial certification or recertification application submission and at the time of the audit, the department shall issue a notice of disapproval of the certification status of the system or associated component. For the purposes of this subsection, an audit shall be either a field audit or an audit of any information submitted to the U.S. EPA or the department. By issuing the notice of disapproval, the department revokes prospectively the certification status of the system or component. The data measured and recorded by the system or component shall not be considered valid quality-assured data from the date of issuance of the notification of the revoked certification status until the date and time that the owner or operator completes subsequently approved initial certification or recertification tests. The owner or operator shall follow the initial certification or recertification procedures in subsections (e) through (k) for each disapproved system or component.

(n) The NO_x authorized account representative for a NO_x budget unit shall submit written notice to the department ~~and~~, the U.S. EPA, and the appropriate U.S. EPA Regional Office in accordance with 40 CFR 75.61*, except that if the unit is not subject to an acid rain emissions limitation, the notification is only required to be sent to the department.

(o) The NO_x authorized account representative shall comply with all record keeping and reporting requirements in this subsection and with the requirements of section 6(e) of this rule as follows:

(1) If the NO_x authorized account representative for a NO_x budget unit subject to an acid rain emission limitation who signed and certified any submission that is made under 40 CFR 75, Subpart F* or 40 CFR 75, Subpart G* and that includes data and information required under this section or 40 CFR 75, Subpart H* is not the same person as the designated representative or the alternative designated representative for the unit under 40 CFR 72*, the submission must also be signed by the designated representative or the alternative

designated representative.

(2) The owner or operator of a NO_x budget unit shall comply with the following monitoring plan requirements:

(A) The owner or operator of a unit subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62*, except that the monitoring plan shall also include all of the information required by 40 CFR 75, Subpart H*.

(B) The owner or operator of a unit that is not subject to an acid rain emissions limitation shall comply with requirements of 40 CFR 75.62*, except that the monitoring plan is only required to include the information required by 40 CFR 75, Subpart H*.

(3) The NO_x authorized account representative shall submit an application to the department within forty-five (45) days after completing all initial certification or recertification tests required under subsections (e) through (k), including the information required under 40 CFR 75, Subpart H*.

(4) The NO_x authorized account representative shall submit quarterly reports as follows:

(A) If a unit is subject to an acid rain emission limitation or if the owner or operator of the NO_x budget unit chooses to meet the annual reporting requirements of this section, the NO_x authorized account representative shall submit a quarterly report for each calendar quarter beginning with the following:

(i) the units that elect to comply with the early reduction credit provisions under section 14 of this rule, the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification;

(ii) the units commencing operation prior to May 31, 2004, that are not required to certify monitors by May 1 prior to the year in which early reduction credits are generated under subsection (c)(1), the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j) or, if the certification tests are not completed by May ~~31, 2004~~ 1, 2003, the partial calendar quarter from May ~~31, 2004~~ 1, 2003, through June 30, ~~2004~~ 2003. Data shall be recorded and reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour on May ~~31, 2004~~ 1, 2003; or

(iii) for a unit that commences operation after May ~~31, 2004~~ 1, 2003, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(B) If a NO_x budget unit is not subject to an acid rain emission limitation, then the NO_x authorized account representative shall do either the following:

(i) Meet all of the requirements of 40 CFR 75* related to monitoring and reporting NO_x mass emissions during the entire year and meet the reporting deadlines specified in clause (A)(i).

(ii) Submit quarterly reports ~~only for~~ covering the ~~periods from the earlier of~~ period May 1 ~~or the date and hour that the owner or operator successfully completes all of the recertification tests required under 40 CFR 75.74(d)(3)*~~ through September 30 of each year ~~in accordance with the provisions of~~ and including the data described in 40 CFR ~~75.74(b)~~ 75.74(c)(6)*. The NO_x authorized account representative shall submit a quarterly report for each calendar quarter, beginning with:

(AA) The units that elect to comply with the early reduction credit provisions under section 14 of this rule, the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j). Data shall be reported from the date and hour corresponding to the date and hour of provisional certification;

(BB) The units commencing operation prior to May 1, ~~2002~~ 2003, that are not required to certify monitors by May 1, ~~2001~~ 2002, under subsection (c)(1), the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C), or if the certification tests are not completed by May 1, ~~2002~~ 2003, the partial calendar quarter from May 1, ~~2002~~ 2003 through June 30, ~~2002~~ 2003. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1, ~~2002~~ 2003.

(CC) For units that commence operation after May 1, ~~2002~~ 2003, during the ozone control period, the calendar quarter in which the unit commences operation. Data shall be reported from the date and hour corresponding to when the unit commenced operation.

(DD) For units that commence operation after May 1, ~~2002~~ 2003, and before May 1 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j) or, if the certification tests are not completed by May 1 of the year in which the unit commences operation, May 1 of the year in which the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of May 1 of the year after the unit commences operation.

(EE) For units that commence operation after May 1, ~~2002~~ 2003, and after September 30 of the year in which the unit commences operation, the earlier of the calendar quarter that includes the date of initial provisional certification under subsection (h)(3)(C) or (j) or, if the certification tests are not completed by May 1 of the year after the unit commences operation, May 1 of the year after the unit commences operation. Data shall be reported from the earlier of the date and hour corresponding to the date and hour of provisional certification or the first hour of

May 1 of the year after the unit commences operation.

(C) The NO_x authorized account representative shall submit each quarterly report to the U.S. EPA within thirty (30) days following the end of the calendar quarter covered by the report. Quarterly reports shall be submitted in the manner specified in 40 CFR 75, Subpart H* and 40 CFR 75.64* and the following:

(i) For units subject to an acid rain emissions limitation, quarterly reports shall include all of the data and information required in 40 CFR 75, Subpart H* for each NO_x budget unit, or group of units using a common stack, as well as information required in 40 CFR 75, Subpart G*.

(ii) For units not subject to an acid rain emissions limitation, quarterly reports are only required to include all of the data and information required in 40 CFR 75, Subpart H* for each NO_x budget unit, or group of units using a common stack.

(D) The NO_x authorized account representative shall submit to the department and the U.S. EPA a compliance certification in support of each quarterly report based on reasonable inquiry of those persons with primary responsibility for ensuring that all of the unit's emissions are correctly and fully monitored. The certification shall state the following:

(i) The monitoring data submitted were recorded in accordance with the applicable requirements of this section and 40 CFR 75*, including the quality assurance procedures and specifications.

(ii) For a unit with add-on NO_x emission controls and for all hours where data are substituted in accordance with 40 CFR 75.34(a)(1)*, the add-on emission controls were operating within the range of parameters listed in the ~~monitoring plan~~ quality assurance and quality control program under 40 CFR 75, Appendix B* and the substitute values do not systematically underestimate NO_x emissions.

(iii) For a unit that is reporting on an ozone control period basis under this subdivision, the NO_x emission rate and NO_x concentration values substituted for missing data under 40 CFR 75, Subpart D* are calculated using only values from an ozone control period and do not systematically underestimate NO_x emissions.

(p) A petition requesting approval of alternatives to any requirement of this section may be made as follows:

(1) The NO_x authorized account representative of a NO_x budget unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the U.S. EPA requesting approval to apply an alternative to any requirement of this section as follows:

(A) Application for an alternative to any requirement of this section is in accordance with this subsection only to the extent that the petition is approved by the U.S. EPA, in consultation with the department.

(B) Notwithstanding this subdivision, if the petition requests approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72*, the petition is governed by subdivision (2).

(2) The NO_x authorized account representative of a NO_x budget unit that is not subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to any requirement of this section as follows:

(A) The NO_x authorized account representative of a NO_x budget unit that is subject to an acid rain emissions limitation may submit a petition under 40 CFR 75.66* to the department and the U.S. EPA requesting approval to apply an alternative to a requirement concerning any additional CEMS required under the common stack provisions of 40 CFR 75.72* or a NO_x concentration CEMS used under 40 CFR 75.71(a)(2)*.

(B) Application of an alternative to any requirement of this section is in accordance with this section only to the extent the petition under this subsection is approved by both the department and the U.S. EPA.

(q) The following applies to the monitoring and reporting of NO_x mass emissions:

(1) The owner or operator of a unit that elects to monitor and report NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR 75* for any source that has source allocations based upon heat input.

(2) The owner or operator of a unit that monitors and reports NO_x mass emissions using a NO_x concentration system and a flow system shall also monitor and report heat input at the unit level using the procedures set forth in 40 CFR 75* for any source that is applying for early reduction credits under section 15(b) of this rule.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-12)*

326 IAC 10-4-13 Individual opt-ins

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 13. (a) A unit may qualify to become a NO_x budget opt-in source under this section if the unit meets the following requirements:

(1) Is not a NO_x budget unit under section 1 of this rule.

(2) Has all of its emissions vented to a stack.

(3) Is currently operating.

A unit that is a NO_x budget unit, is covered by an exemption under section 1(b) of this rule or a retired unit exemption under section 3 of this rule, or is not operating is not eligible to become a NO_x budget opt-in source.

(b) Except otherwise as provided in this rule, a NO_x budget opt-in source shall be treated as a NO_x budget unit for purposes of applying sections 1 through 12 and 14 of this rule.

(c) A unit for which an application for a NO_x budget opt-in permit is submitted and not denied or withdrawn, or a NO_x budget opt-in source, located at the same source as one (1) or more NO_x budget units, shall have the same NO_x authorized account representative as the NO_x budget units.

(d) In order to apply for an initial NO_x budget opt-in permit, the NO_x authorized account representative of a unit qualified under subsection (a) may submit an application to the department at any time, except as provided under subsection (g), that includes the following:

(1) A complete NO_x budget permit application under section 7(c) of this rule.

(2) A monitoring plan submitted in accordance with section 12 of this rule.

(3) A complete account certificate of representation under section 6(h) of this rule, if no NO_x authorized account representative has been previously designated for the unit.

The NO_x authorized account representative of a NO_x budget opt-in source shall submit a complete NO_x budget permit application under section 7(c) of this rule to renew the NO_x budget opt-in permit in accordance with section 7(b)(1)(C) and 7(b)(2)(C) of this rule and, if applicable, an updated monitoring plan in accordance with section 12 of this rule.

(e) The department shall issue or deny a NO_x budget opt-in permit for a unit for which an initial application for a NO_x budget opt-in permit under subsection (d) is submitted, in accordance with section 7(a) of this rule and the following:

(1) The department shall determine, on an interim basis, the sufficiency of the monitoring plan accompanying the initial application for a NO_x budget opt-in permit under subsection (d). A monitoring plan is sufficient, for purposes of interim review, if the plan appears to contain information demonstrating that the NO_x emissions rate and heat input of the unit are monitored and reported in accordance with section 12 of this rule. A determination of sufficiency shall not be construed as acceptance or approval of the unit's monitoring plan.

(2) If the department determines that the unit's monitoring plan is sufficient under subdivision (1) and after completion of monitoring system certification under 40 CFR 75, Subpart H* and section 12 of this rule, the NO_x emissions rate and the heat input of the unit shall be monitored and reported in accordance with 40 CFR 75, Subpart H* and section 12 of this rule for one (1) full ozone control period during which ~~monitoring system~~ percent monitor data availability is not less than ninety percent (90%) and during which the unit is in full compliance with any applicable state or federal NO_x emissions or emissions-related requirements. Solely for purposes of applying the requirements in the prior sentence, the unit shall be treated as a NO_x budget unit prior to issuance of a NO_x budget opt-in permit covering the unit.

(3) Based on the information monitored and reported under subdivision (2), the unit's baseline heat rate shall be calculated as the unit's total heat input, in million British thermal units, for the ozone control period and the unit's baseline NO_x emissions rate shall be calculated as the unit's total NO_x mass emissions, in pounds, for the ozone control period divided by the unit's baseline heat rate.

(4) After calculating the baseline heat input and the baseline NO_x emissions rate for the unit under subdivision (3), the department shall serve a draft NO_x budget opt-in permit on the NO_x authorized account representative of the unit.

(5) Within twenty (20) days after the issuance of the draft NO_x budget opt-in permit, the NO_x authorized account representative of the unit must submit to the department a confirmation of the intention to opt in the unit or a withdrawal of the application for a NO_x budget opt-in permit under subsection (d). The department shall treat the failure to make a timely submission as a withdrawal of the NO_x budget opt-in permit application.

(6) If the NO_x authorized account representative confirms the intention to opt in the unit under subdivision (5), the department shall issue the draft NO_x budget opt-in permit in accordance with section 7(a) of this rule.

(7) Notwithstanding subdivisions (1) through (6), if at any time before issuance of a draft NO_x budget opt-in permit for the unit, the department determines that the unit does not qualify as a NO_x budget opt-in source under subsection (a), the department shall issue a draft denial of a NO_x budget opt-in permit for the unit in accordance with section 7(a) of this rule.

(8) A NO_x authorized account representative of a unit may withdraw its application for a NO_x budget opt-in permit under subsection (d) at any time prior to the issuance of the final NO_x budget opt-in permit. Once the application for a NO_x budget opt-in permit is withdrawn, a NO_x authorized account representative wanting to reapply must submit a new application for a NO_x budget permit under subsection (d).

(9) The effective date of the initial NO_x budget opt-in permit shall be May 1 of the first ozone control period starting after the issuance of the initial NO_x budget opt-in permit by

the department. The unit shall be a NO_x budget opt-in source and a NO_x budget unit as of the effective date of the initial NO_x budget opt-in permit.

(f) The following shall apply to the content of a NO_x budget opt-in permit:
(1) Each NO_x budget opt-in permit, including any draft or proposed NO_x budget opt-in permit, if applicable, shall contain all elements required for a complete NO_x budget opt-in permit application under section 7(c) of this rule ~~as approved or adjusted by the department~~.
(2) Each NO_x budget opt-in permit is deemed to incorporate automatically the definitions of terms under section 1 of this rule and, upon recordation by the U.S. EPA under this section and sections 10 and 11 of this rule, every allocation, transfer, or deduction of NO_x allowances to or from the compliance accounts of each NO_x budget opt-in source covered by the NO_x budget opt-in permit or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located.

(g) The following requirements must be satisfied in order to withdraw an opt-in unit from the NO_x budget trading program:
(1) The NO_x authorized account representative of a NO_x budget opt-in source shall submit to the department a request to withdraw effective as of a specified date prior to May 1 or after September 30. The submission shall be made no later than ninety (90) days prior to the requested effective date of withdrawal.
(2) Before a NO_x budget opt-in source covered by a request under subdivision (1) may withdraw from the NO_x budget trading program and the NO_x budget opt-in permit may be terminated under subdivision (6), the following conditions must be met:
(A) For the ozone control period immediately before the withdrawal is to be effective, the NO_x authorized account representative must submit or must have submitted to the department an annual compliance certification report in accordance with section 8 of this rule.
(B) If the NO_x budget opt-in source has excess emissions for the ozone control period immediately before the withdrawal is to be effective, the U.S. EPA will deduct or have deducted from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, the full amount required under section 10(k)(5) through 10(k)(7) of this rule for the ozone control period.
(C) After the requirements for withdrawal under this subdivision and subdivision (1) are met, the U.S. EPA will deduct from the NO_x budget opt-in source's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to, and allocated for, the same or a prior

ozone control period as any NO_x allowances allocated to that source under subsection (i) for any ozone control period for which the withdrawal is to be effective. The U.S. EPA will close the NO_x budget opt-in source's compliance account and shall establish, and transfer any remaining allowances to, a new general account for the owners and operators of the NO_x budget opt-in source. The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(3) A NO_x budget opt-in source that withdraws from the NO_x budget trading program shall comply with all requirements under the NO_x budget trading program concerning all years for which the NO_x budget opt-in source was a NO_x budget opt-in source, even if the requirements arise or must be complied with after the withdrawal takes effect.

(4) After the requirements for withdrawal under subdivisions (1) and (2) are met, including deduction of the full amount of NO_x allowances required, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source of the acceptance of the withdrawal of the NO_x budget opt-in source as of a specified effective date that is after the requirements have been met and that is prior to May 1 or after September 30.

(5) If the requirements for withdrawal under subdivisions (1) and (2) are not met, the department shall issue a notification to the NO_x authorized account representative of the NO_x budget opt-in source that the NO_x budget opt-in source's request to withdraw is denied. If the NO_x budget opt-in source's request to withdraw is denied, the NO_x budget opt-in source shall remain subject to the requirements for a NO_x budget opt-in source.

(6) After the department issues a notification under subdivision (4) that the requirements for withdrawal have been met, the department shall revise the NO_x budget permit covering the NO_x budget opt-in source to terminate the NO_x budget opt-in permit as of the effective date specified under subdivision (1). A NO_x budget opt-in source shall continue to be a NO_x budget opt-in source until the effective date of the termination.

(7) If the department denies the NO_x budget opt-in source's request to withdraw, the NO_x authorized account representative may submit another request to withdraw in accordance with subdivisions (1) and (2).

Once a NO_x budget opt-in source withdraws from the NO_x budget trading program and its NO_x budget opt-in permit is terminated under this section, the NO_x authorized account representative may not submit another application for a NO_x budget opt-in permit under subsection (d) for the unit prior to the date that is four (4) years after the date on which the terminated NO_x budget opt-in permit became effective.

(h) When a NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the NO_x authorized account representative shall notify the department and the U.S. EPA

in writing of the change in the NO_x budget opt-in source's regulatory status, within thirty (30) days of the change. If there is a change in the regulatory status, the department and the U.S. EPA will take the following actions concerning a NO_x budget opt-in source:

(1) When the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule, the department shall revise the NO_x budget opt-in source's NO_x budget opt-in permit to meet the requirements of a NO_x budget permit under section 7(d) and 7(e) of this rule as of an effective date that is the date on which the NO_x budget opt-in source becomes a NO_x budget unit under section 1 of this rule.

(2) The U.S. EPA will deduct from the compliance account for the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, NO_x allowances equal in number to, and allocated for, the same or a prior ozone control period as follows:

(A) Any NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for any ozone control period after the last ozone control period during which the unit's NO_x budget opt-in permit was effective.

(B) If the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the NO_x allowances allocated to the NO_x budget unit, as a NO_x budget opt-in source, under subsection (i) for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(3) The NO_x authorized account representative shall ensure that the compliance account of the NO_x budget unit under subdivision (1), or the overdraft account of the NO_x budget source where the unit is located, includes the NO_x allowances necessary for completion of the deduction under subdivision (2). If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(4) For every ozone control period during which the NO_x budget permit revised under subdivision (1) is effective, the following shall apply:

(A) The NO_x budget unit under subdivision (1) shall be treated, solely for the purposes of NO_x allowance allocations under section 9(c) through 9(e) of this rule, as a unit that commenced operation on the effective date of the NO_x budget permit revision under subdivision (1) and shall be allocated NO_x allowances under sections 9(c) through 9(e) of this rule.

(B) Notwithstanding clause (A), if the effective date of the NO_x budget permit revision under subdivision (1) is during an ozone control period, the following number of NO_x allowances shall be allocated to the NO_x budget unit. The number of NO_x allowances

otherwise allocated to the NO_x budget unit under section 9(c) through 9(e) of this rule for the ozone control period multiplied by the ratio of the number of days, in the ozone control period, starting with the effective date of the permit revision under subdivision (1), divided by the total number of days in the ozone control period.

(5) When the NO_x authorized account representative of a NO_x budget opt-in source does not renew its NO_x budget opt-in permit under subsection (d), the U.S. EPA will deduct from the NO_x budget opt-in unit's compliance account, or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located, NO_x allowances equal in number to and allocated for the same or a prior ozone control period as any NO_x allowances allocated to the NO_x budget opt-in source under subsection (i) for any ozone control period after the last ozone control period for which the NO_x budget opt-in permit is effective. The NO_x authorized account representative shall ensure that the NO_x budget opt-in source's compliance account or the overdraft account of the NO_x budget source where the NO_x budget opt-in source is located includes the NO_x allowances necessary for completion of the deduction. If the compliance account or overdraft account does not contain sufficient NO_x allowances, the U.S. EPA will deduct the required number of NO_x allowances, regardless of the ozone control period for which they were allocated, whenever NO_x allowances are recorded in either account.

(6) After the deduction under subdivision (5) is completed, the U.S. EPA will close the NO_x budget opt-in source's compliance account. If any NO_x allowances remain in the compliance account after completion of the deduction and any deduction under section 10(j) and 10(k) of this rule, the U.S. EPA will close the NO_x budget opt-in source's compliance account and will establish, and transfer any remaining allowances to a new general account for the owners and operators of the NO_x budget opt-in source. The NO_x authorized account representative for the NO_x budget opt-in source shall become the NO_x authorized account representative for the general account.

(i) The department shall allocate NO_x allowances to ~~a~~ NO_x budget opt-in sources as follows:

(1) By December 31 immediately before the first ozone control period for which the NO_x budget opt-in permit is effective, the department shall allocate NO_x allowances to the NO_x budget opt-in source and submit to the U.S. EPA the allocation for the ozone control period in accordance with subdivision (3).

(2) By no later than December 31, after the first ozone control period for which the NO_x budget opt-in permit is in effect, and December 31 of each year thereafter, the department shall allocate NO_x allowances to the NO_x budget opt-in source, and submit to the U.S. EPA allocations for the next ozone control period, in accordance with subdivision (3).

(3) For each ozone control period for which the NO_x budget opt-in source has an approved

NO_x budget opt-in permit, the NO_x budget opt-in source shall be allocated NO_x allowances according to the following procedures:

(A) The heat input, in million British thermal units, used for calculating NO_x allowance allocations shall be the lesser of the following:

(i) The NO_x budget opt-in source's baseline heat input determined pursuant to subsection (e)(3).

(ii) The NO_x budget opt-in source's heat input, as determined in accordance with section 12 of this rule, for the ozone control period in the year prior to the year of the ozone control period for which the NO_x allocations are being calculated.

(B) The department shall allocate NO_x allowances to the NO_x budget opt-in source in an amount equaling the heat input, in million British thermal units, determined under clause (A) multiplied by the lesser of the following:

(i) The NO_x budget opt-in source's baseline NO_x emissions rate, in pounds per million British thermal units, determined pursuant to subsection (e)(3).

(ii) The most stringent state or federal NO_x emissions limitation applicable to the NO_x budget opt-in source during the ozone control period.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-13)*

326 IAC 10-4-14 NO_x allowance banking

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 14. (a) NO_x allowances may be banked for future use or transfer in a compliance account, an overdraft account, or a general account as follows:

(1) Any NO_x allowance that is held in a compliance account, an overdraft account, or a general account shall remain in the account unless and until the NO_x allowance is deducted or transferred under:

(A) section 8(d), 8(e), 10(j), 10(k), 11, or 13 of this rule; or

(B) subsection (b).

(2) The U.S. EPA will designate, as a banked NO_x allowance, any NO_x allowance that remains in a compliance account, an overdraft account, or a general account after the U.S. EPA has made all deductions for a given ozone control period from the compliance account

or overdraft account pursuant to section 10(j) and 10(k) of this rule, 40 CFR 97*, or a federal implementation plan and that was allocated for that control period or a control period in a prior year.

(b) Each year starting in 2005, after the U.S. EPA has completed the designation of banked NO_x allowances under subsection (a)(2) and before May 1 of the year, the U.S. EPA will determine the extent that banked NO_x allowances may be used for compliance in the ozone control period for the current year as follows:

(1) The U.S. EPA will determine the total number of banked NO_x allowances held in compliance accounts, overdraft accounts, or general accounts. (2) If the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts is less than or equal to ten percent (10%) of the sum of the trading program budget for the ozone control period, any banked NO_x allowance may be deducted for compliance in accordance with section 10(k) of this rule.

(3) If the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts exceeds ten percent (10%) of the sum of the trading program budget for the ozone control period, any banked allowance may be deducted for compliance in accordance with section 10(k) of this rule, except as follows:

(A) The U.S. EPA will determine the following ratio:

(i) One-tenth (0.10) multiplied by the sum of the trading program budget for the ozone control period.

(ii) Divided by the total number of banked NO_x allowances determined, under subdivision (1), to be held in compliance accounts, overdraft accounts, or general accounts.

(B) The U.S. EPA will multiply the number of banked NO_x allowances in each compliance account or overdraft account by the ratio determined under clause (A). The resulting product is the number of banked NO_x allowances in the account that may be deducted for compliance in accordance with section 10(k) of this rule. Any banked NO_x allowances in excess of the resulting product may be deducted for compliance in accordance with section 10(k) of this rule, except that, if these NO_x allowances are used to make a deduction, two (2) NO_x allowances must be deducted for each deduction of one (1) NO_x allowance required under section 10(k) of this rule.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana**

Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204. *(Air Pollution Control Board; 326 IAC 10-4-14)*

326 IAC 10-4-15 Compliance supplement pool

Authority: IC 13-14-8; IC 13-17-3-4; IC 13-17-3-11

Affected: IC 13-15; IC 13-17

Sec. 15. (a) The department may allow sources required to implement NO_x emission control measures by May 31, 2004, and subject to this rule, to demonstrate compliance in the 2004 and 2005 ozone seasons using credit issued from a compliance supplement pool in accordance with this section. A source may not use credit from the compliance supplement pool to demonstrate compliance after the 2005 ozone season.

(b) The department may distribute NO_x allocations from the compliance supplement pool to NO_x budget units that are required to implement control measures using one (1) or both of the following mechanisms:

(1) The department may issue credits to NO_x budget units that implement emissions reductions beyond all applicable requirements during the ozone season in ~~2002 and~~ any year in 2001 through 2003 according to the following provisions:

(A) The department shall complete the issuance process ~~by no later than March 31of~~ the year after the control measures were ~~implemented.~~implemented as follows:

(i) For sources subject to 40 CFR 97*, no later than March 31, 2003.

(ii) For sources not subject to 40 CFR 97*, no later than March 31, 2004.

(B) The emissions reduction may not be required by Indiana's state implementation plan (SIP), state law or rule, or be otherwise required by the Clean Air Act (CAA).

(C) The emissions reduction must be verified by the source as actually having occurred during an ozone season in ~~2002 and~~ any year in 2001 through 2003.

(D) Each NO_x budget unit for which the owner or operator requests any early reduction credits under this section shall monitor NO_x emissions in accordance with 40 CFR 75, Subpart H* starting in the ozone control period prior to the ozone control period for which the early reduction credits are requested and for each ozone control period for which the early reduction credits are requested. The unit's ~~monitoring system~~ percent monitor data availability shall be not less than ninety percent (90%) during the ozone control period prior to the ozone control period for which the early reduction credits are requested, and the unit must be in compliance with any applicable state or federal NO_x emissions or emissions-related requirements during the ozone control period for which the early reduction credits are requested.

(E) The emissions reduction must be quantified according to procedures set forth in 40 CFR 75, Subpart H*.

(F) The NO_x authorized account representative of a NO_x budget unit that meets the requirements of clauses (B) through (D) may submit to the department a request for early reduction credits for the unit based on NO_x emission rate reductions made by the unit in the ozone control period for ~~2002 and~~ any year in 2001 through 2003. The request shall include the following:

(i) In the early reduction credit request, the NO_x authorized account may request early reduction credits for the ozone control period in an amount equal to the unit's heat input for the ozone control period multiplied by the difference between the following:

(AA) The unit's actual average NO_x emission rate in the ozone control period prior to the first ozone control period for which the early reduction credits are requested.

(BB) The unit's NO_x emission rate for the ozone control period in which the early reductions occurred, divided by two thousand (2,000) pounds per ton, and rounded to the nearest ton.

(ii) The early reduction credit request must be submitted, in a format specified by the department, by October 31 of the year in which the NO_x emission rate reductions on which the request is based are made or a later date approved by the department.

(G) The department shall allocate NO_x allowances from the compliance supplement pool, to NO_x budget units meeting the requirements of this subdivision, in accordance with the following procedures:

(i) Upon receipt of each early reduction credit request, the department shall accept the request only if the requirements of clauses (B) through (D) and (F)(ii) are met and, if the request is accepted, shall make any necessary adjustments to the request to ensure that the amount of the early reduction credits requested meets the requirement of clauses (B) through (D).

(ii) If the compliance supplement pool has an amount of NO_x allowances equal to or greater than the number of early reduction credits in all accepted early reduction credit requests for ~~2002 and~~ any year in 2001 through 2003, as adjusted under item (i), the department shall allocate to each NO_x budget unit covered by the accepted requests one (1) allowance for each early reduction credit requested, as adjusted under item (i).

(iii) If the compliance supplement pool has an amount of NO_x allowances less than the number of early reduction credits in all accepted early reduction credit requests for ~~2002 and~~ any year in 2001 through 2003, as adjusted under item (i), the department shall allocate NO_x allowances to each NO_x budget unit covered by the accepted requests according to the formula, ~~A~~a unit's allocated early reduction credits =

((unit's adjusted early reduction credits) ÷ (total adjusted early reduction credits requested by all units)) × (available NO_x allowances from the compliance supplement pool) where:

(AA) Unit's adjusted early reduction credits is the number of early reduction credits for the unit for ~~2002 and~~ any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(BB) Total adjusted early reduction credits requested by all units is the number of early reduction credits for all units for ~~2002 and~~ any year in 2001 through 2003 in accepted early reduction credit requests, as adjusted under item (i).

(CC) Available NO_x allowances from the compliance supplement pool is the number of NO_x allowances in the compliance supplement pool and available for early reduction credits for 2001 through 2003.

(H) By March 31 of the year following the request, the department shall submit to the U.S. EPA the allocations of NO_x allowances determined under clause (G). The U.S. EPA will record the allocations to the extent that they are consistent with the requirements of clauses (B) through (G).

(I) NO_x allowances recorded under clause (H) may be deducted for compliance under section 10(k) for the ozone control periods in ~~2004 or~~ 2003 through 2005, except that no more than two thousand four hundred fifty-four (2,454) tons shall be available for use in 2003. Notwithstanding section 14(a) of this rule, the U.S. EPA will deduct as retired any NO_x allowance that is recorded under clause (G) and is not deducted for compliance in accordance with section 10(k) of this rule for the ozone control period in 2004 or 2005.

(J) NO_x allowances recorded under clause (G) are treated as banked allowances in 2005 for the purposes of section 14(a) and 14(b) of this rule.

(K) Sources that receive credit according to the requirements of this section may trade the credit to other sources or persons according to the provisions in this rule.

(2) The department may issue to NO_x budget units that demonstrate a need for an extension of the May 31, 2004, compliance deadline according to the following provisions:

(A) The department shall initiate the issuance process by the later date of September 30, 2002, or after the department issues credit according to the procedures in subdivision (1).

(B) The department shall complete the issuance process by no later than May 31, 2004.

(C) The department shall issue credit to a source only if the source demonstrates the following:

(i) For electricity generating units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the reliability of the electricity supply. This demonstration must include a showing that it would not be feasible to import electricity from other electricity generation systems during the

installation of control technologies necessary to comply with this rule.

(ii) For large affected units, compliance with the applicable control measures under this rule by May 31, 2004, would create undue risk for the source or its associated industry to a degree that is comparable to the risk described in item (i).

(iii) For a unit subject to this rule and subdivision (1) that allows for early reduction credits, it was not possible for the source to comply with applicable control measures by generating early reduction credits or acquiring early reduction credits from other sources.

(iv) For a unit subject to an approved emissions trading program under this rule, it was not possible to comply with applicable control measures by acquiring sufficient credit from other sources or persons subject to the emissions trading program.

(D) The department shall ensure the public an opportunity, through a public hearing process, to comment on the appropriateness of allocating compliance supplement pool credits to a NO_x budget unit under subdivision (C).

(c) The total number of NO_x allowances available from the compliance supplement pool shall not exceed nineteen thousand nine hundred fifteen (19,915) tons of NO_x, except that no more than two thousand four hundred fifty-four (2,454) tons shall be available for use in 2003. No more than fifty percent (50%) of the compliance supplement pool shall be allocated in 2003 for early ~~reduction~~ reductions implemented in 2001 and 2002. The remainder of the compliance supplement pool shall be allocated in 2004 for early ~~reduction~~ reductions implemented in 2003 and any demonstrations of need. Any NO_x allowances that remain in the compliance supplement pool after the 2005 ozone control period shall be retired.

***~~Copies of the Code of Federal Regulations (CFR) referenced in this rule~~ These documents are incorporated by reference, and copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Department of Environmental Management, Office of Air Quality, Indiana Government Center-North, 100 North Senate Avenue, Indianapolis, Indiana 46204.** *(Air Pollution Control Board; 326 IAC 10-4-15)*